

LAW REFORM COMMISSION OF BRITISH COLUMBIA

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Backgrounder

LRC 11—Interim Report on the Law of Evidence

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The BC Law Reform Commission's *Interim Report on the Law of Evidence* is focussed on recommending certain changes to the *Evidence Act*, to improve the law of evidence as it affects British Columbia. In particular, the recommended changes deal with the topic of proof of the records of banks, expert witnesses, and contradiction of witnesses. This interim report is part of an overall study that seeks to promote uniformity between the federal *Evidence Act* and provincial codes relating to evidence.

The interim report consists of four chapters. Chapter one compares particular provisions in the federal and provincial *Evidence Act* relating to record keeping in banks. The commission recommends changes to the wording of existing provincial legislation from "bank" to "financial institution" as well as adding a provision to the provincial legislation to broaden the scope of the evidence admissible in court pursuant to such provisions.

In the following chapter the commission evaluates provisions in the British Columbia *Supreme Court Rules*, concerning the giving of expert evidence and notes the lack of such a provision in the *Evidence Act*. The commission observes that the provision in *Supreme Court Rules* is both unclear and inappropriately located. As such, the commission recommends deleting the existing provision in the *Supreme Court Rules* and inserting a section into the *Evidence Act* clarifying the circumstances under which expert evidence may be given.

Chapter three addresses the contradiction of witnesses, and more particularly the extent to which a party can give evidence contradicting that given by an earlier witness for that party. The commission observes that the existing provision in the *Evidence Act* dealing with contradiction of witnesses does not conform to the present trial practice in British Columbia. The commission recommends the provision in question be repealed and be replaced with a provision similar to one contained in Ontario's *Evidence Act*.

Finally, the report provides a summary of the commission's recommendations concerning specific revisions to the provincial *Evidence Act* and the British Columbia *Supreme Court Rules*. The commission acknowledges the interim nature of the report, but points out that

the recommendations are capable of being implemented. The commission also emphasizes that if these recommendations are to be enacted into law, they be implemented by specific changes to the relevant acts, rather than by a general statute amendment act.

Further Developments

See *Attorney-General Statutes Amendment Act 1975*, S.B.C. 1975, c 4, s. 6 (now *Evidence Act*, R.S.B.C. 1996, c. 124, ss. 37, 38).