

## ABOUT THE AUTHOR:

Dr. Maung Maung served in the Burma National Army and the Resistance. After the war, he joined the staff of the newly re-opened University of Rangoon as a tutor in English, and read law, passing out at the top of his class. He then went to London to read for the Bar, spending his summers in Holland at the Academy of International Law of The Hague and the University of Utrecht. He was called to the Bar by Lincoln's Inn, and later earned his doctor's degree in international law at Utrecht.

Back in Rangoon he has practised, served in the Attorney-General's Office, taught at the law faculty of the University, and written. He served as Asst. Attorney-General in the Caretaker Government, 1958-60, after which he went to Yale University as a visiting lecturer, to teach, write, and earn the degree of Doctor of Juridical Science.

Dr. Maung Maung has served on Burma's delegation to the United Nations General Assembly, and is a Judge of the Chief Court of Burma.

"Eggar on Evidence was an old and valued friend and this revised edition by Dr. Maung Maung proves to be more endearing and valuable than ever.

Though having a load of business on my hands I could not help going through the pages of the book as revised by Dr. Maung Maung. I must say that he has caught old Eggar's spirit and the notes he has added will make the book an indispensable handbook for the busy lawyer as well as the student of law.

If I have the good fortune to go back to my first love- the law - this little book will always be at my right hand as an ever-ready guide on the law of evidence."

DR. E MAUNG  
Sept. 1958.

"It is the duty of the presiding officer (of a court-martial) to see that justice is administered, that the accused has a fair trial, and that he does not suffer any disadvantage in consequence of his position as a person under trial, or of his ignorance, or of his incapacity to examine or cross-examine witnesses, or otherwise."

"It is the duty of the prosecutor to assist the court in the administration of justice, to behave impartially, to bring to whole of the transaction before the court, and not to take any unfair advantage of or suppress any evidence in favour of the accused."

*Rules 75 (2) and 76 (1) of the  
Defence Services Rules*

## CONTENTS

	Page
Preface ... ..	i
I. OPERATION OF THE ACT ... ..	1
II. EVIDENCE AND PROOF ... ..	1
III. WHEN EVIDENCE IS NOT REQUIRED ... ..	3
1. Judicial Notice ... ..	3
2. Presumptions of Facts ... ..	6
3. When the Burden of Proof is on the Opponent ... ..	9
4. Conclusive Proof ... ..	11
5. Facts Admitted ... ..	12
6. Estoppel ... ..	13
IV. FACTS WHICH MAY BE PROVED ... ..	16
1. Facts in Issue, Relevant Facts... ..	16
2. Explanatory Facts ... ..	17
3. Facts supporting inference or probability ... ..	18
4. The whole transaction of <i>res gestae</i> ... ..	20
5. Cause, Opportunity, Effect ... ..	20
6. Surrounding Circumstances ... ..	21
7. Motive ... ..	21
8. Preparation ... ..	21
9. Conduct and its Explanation ... ..	21
10. Conduct of Co-conspirators ... ..	23
11. State of Mind or Body ... ..	24
12. Character ... ..	26
13. Damages ... ..	27

14. Right or Custom ... ..	27
V. OPINIONS ... ..	28
VI. HEARSAY IS EXCLUDED ... ..	31
1. When Statements may be proved ... ..	31
2. When a person cannot be called ... ..	33
3. Evidence in a former proceeding ... ..	37
4. Admissions ... ..	39
5. Confessions ... ..	42
6. Statements in Books ... ..	50
7. Judgements ... ..	52
VII. WHEN DOCUMENTS ARE NECESSARY ... ..	55
1. Dispositive documents ... ..	55
2. Extrinsic evidence admissible ... ..	58
3. Interpretation of documents ... ..	65
VIII. PRODUCTION OF DOCUMENTS BEFORE THE HEARING ... ..	67
IX. PRODUCTION OF DOCUMENTS AS EVIDENCE ... ..	70
1. The original must be produced... ..	70
2. Secondary evidence ... ..	71
3. Special Forms of proof ... ..	76
X. PRESUMPTIONS AS TO DOCUMENTS ... ..	80
XI. PROOF OF GENUINENESS OF DOCUMENTS ... ..	85
1. Attestation ... ..	89
2. Registration ... ..	90
3. Stamp ... ..	91
4. Alteration ... ..	92
XII. THE WITNESS ... ..	93
1. Summons and attendance ... ..	93
2. Privilege ... ..	96
3. Protection ... ..	102

4. Competency ... ..	103
5. Oath ... ..	107
XIII. PROCEDURE IN COURT ... ..	108
1. The right to begin ... ..	108
2. Examination-in-chief ... ..	113
3. Cross-examination ... ..	122
4. Re-examination ... ..	128
5. Examination by the Court ... ..	128

## APPENDICES QUESTIONS AND EXERCISES THE EVIDENCE ACT