

EVIDENCE AMENDMENT BILL

EXPLANATORY NOTE

Clause 2: The purpose of this clause is to make it possible for a wife to give evidence *voluntarily* against her husband when he is charged with a grave sexual offence (such as incest, rape, indecent assault, &c.) against a young girl who is a member of the family or household. The clause will not render a wife *compellable* to give evidence in such cases.

Clause 3: Under section 20 of the principal Act a confession in a criminal proceeding is not to be rejected because a promise or threat has been held out to the person confessing, unless the Court thinks that the promise or threat was likely to cause an untrue admission of guilt. This clause re-enacts that section, but extends it to cover confessions obtained by any other inducement except violence or force or any other form of compulsion.

Clause 4: This clause follows, with necessary modifications, the wording of section 1 of the Evidence (Foreign, Dominion, and Colonial Documents) Act, 1933, of the United Kingdom. Its purpose is to simplify, in legal proceedings in New Zealand, the proof of entries in public registers of other countries (such as birth or marriage registers) in cases where similar recognition is given by the law of those countries to the public registers of New Zealand.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
25th August, 1950*

Hon. Mr. Webb

EVIDENCE AMENDMENT

ANALYSIS

Title.	
1. Short Title.	3. Confession after promise, threat, or other inducement.
2. Wife of person charged with certain offences to be competent witness for prosecution.	4. Proof and effect of public registers of other countries, and of certain official certificates.

A BILL INTITULED

AN ACT to Amend the Evidence Act, 1908.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority
5 of the same, as follows:—

1. This Act may be cited as the Evidence Amendment Act, 1950, and shall be read together with and deemed part of the Evidence Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. III, p. 106

10 2. The principal Act is hereby amended by inserting, after section five, the following new section:—

Wife of person charged with certain offences to be competent witness for prosecution.

15 “5A. (1) Where any person is charged with any offence to which this section applies, and the person against whom or in respect of whom the offence is alleged to have been committed is a girl who was under the age of sixteen years at the time of the alleged offence and who—

20 “(a) Is a daughter or grand-daughter of the person charged or of his wife, whether the relationship is traced through lawful wedlock or not; or

“(b) Was at the time of the alleged offence under the care or protection of the person charged or of his wife,—

the wife of the person charged shall be a competent but not compellable witness for the prosecution without the consent of the person charged. 5

See Reprint
of Statutes,
Vol. II, pp. 227,
241-243

“(2) This section applies to every offence referred to in any of the following sections of the Crimes Act, 1908—that is to say—sections one hundred and fifty-five, two hundred and eight, two hundred and eleven, two hundred and thirteen, two hundred and fourteen, two hundred and fifteen, and two hundred and sixteen.” 10

Confession
after promise,
threat, or
other
inducement.

3. The principal Act is hereby further amended by repealing section twenty, and substituting the following section:— 15

“20. A confession tendered in evidence in any criminal proceeding shall not be rejected on the ground that a promise or threat or any other inducement (not being the exercise of violence or force or other form of compulsion) has been held out to or exercised upon the person confessing, unless the Judge or other presiding officer is of opinion that the means by which the confession was obtained were in fact likely to cause an untrue admission of guilt to be made.” 20

Proof and
effect of
public registers
of other
countries,
and of
certain official
certificates.
Cf. Evidence
(Foreign, and
Dominion, and
Colonial
Documents)
Act, 1933
(23 Geo. V,
ch. 4), s. 1
(U.K.)

4. The principal Act is hereby further amended by inserting, after section 44, the following section:— 25

“44A. (1) If at any time the Governor-General in Council is satisfied with respect to any country that, having regard to the law of that country as to the recognition therein of public registers of New Zealand as authentic records and as to the proof of the contents of such registers and other matters by means of duly authenticated certificates issued by public officers in New Zealand, it is desirable in the interests of reciprocity to make with respect to public registers of that country and certificates issued by public officers therein such an Order in Council as is mentioned in subsection *two* of this section, the Governor-General in Council may make such an Order accordingly. 30

“(2) An Order in Council under this section may provide that in New Zealand— 40

“(a) A register of the country to which the Order relates, being such a register as is specified in the Order, shall be deemed to be a public register kept under the authority of the law 45

of that country and recognized by the Courts thereof as an authentic record, and to be a document of such a public nature as to be admissible as evidence of the matters regularly recorded therein:

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“(b) Such matters as may be specified in the Order shall, if recorded in such a register, be deemed, until the contrary is proved, to be regularly recorded therein:

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“(c) Subject to any conditions specified in the Order and to any requirements of rules of Court, a document purporting to be issued in the country to which the Order relates as an official copy of an entry in such a register as is so specified, and purporting to be authenticated as such in the manner specified in the Order as appropriate in the case of such a register, shall, without evidence as to the custody of the register or of inability to produce it and without any further or other proof, be received as evidence that the register contains such an entry:

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“(d) Subject as aforesaid, a certificate purporting to be given in the country to which the Order relates as an official certificate of any such class as is specified in the Order, and purporting to be signed by the officer, and to be authenticated in the manner, specified in the Order as appropriate in the case of a certificate of that class, shall be received as evidence of the facts stated in the certificate:

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“(e) No official document issued in the country to which the Order relates as proof of any matters for the proof of which provision is made by the Order shall, if otherwise admissible in evidence, be inadmissible by reason only that it is not authenticated by the process known as legalization.

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“(3) Official books of record preserved in a central registry and containing entries copied from original registers may, if those entries were copied by officials in the course of their duty, themselves be treated for the purposes of this section as registers.

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“(4) Where any part of a country is under both a local and a central legislature an Order under this section may be made with respect to that part as well as with respect to all the parts under that central legislature.

“(5) In this section the term ‘country’ includes any dependent territory of any country, or any protected State, or any mandated or trust territory.” 5