

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

*Legislative Council,
1st September, 1871.*

(*Hon. Mr. Sewell.*)

Evidence Further Amendment.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Repeal. 3. Parties in action for breach of promise of marriage.</p>	<p>4. Parties and their husbands and wives to be witnesses in suits for adultery. 5. Persons objecting to take oath may be allowed to make declaration and be triable for perjury.</p>
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A BILL INTITULED

AN ACT for the further Amendment of the Law of Evidence. Title.

WHEREAS the discovery of truth in Courts of Justice has been signally promoted by the removal of restrictions on the admissibility of witnesses and it is expedient to amend the Law of Evidence with the object of still further promoting such discovery : Preamble.

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

1. The Short Title of this Act shall be “The Evidence Further Amendment Act 1871” and it shall come into operation on the thirty-first day of December one thousand eight hundred and seventy-one. Short Title.

2. The fourth section of chapter ninety-nine of the Statutes passed in the Imperial Parliament in the fourteenth and fifteenth years of Her present Majesty and so much of the second section of chapter eighty-three of the Statutes passed in the Imperial Parliament in the sixteenth and seventeenth years of Her present Majesty as is contained in the words “or in any proceeding instituted in consequence of adultery” shall on the coming into operation hereof cease to operate or be of any force in New Zealand and on the coming into operation hereof there shall be repealed the Act of the General Assembly of New Zealand the short title whereof is “The English Acts Act 1854” so far (but only so far) as such last-mentioned Act enacts that the said parts of Acts of the Imperial Parliament which by this Act are to cease to operate in New Zealand on the coming into operation hereof shall be taken to extend to New Zealand and be applied therein in the administration of justice. Repeal.

Parties in action for breach of promise of marriage.

3. The parties to any action for breach of promise of marriage shall be competent to give evidence in such action: Provided always that no plaintiff in any action for breach of promise of marriage shall recover a verdict unless his or her testimony shall be corroborated by some other material evidence in support of such promise.

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Parties and their husbands and wives to be witnesses in suits for adultery.

4. The parties to any proceeding instituted in consequence of adultery and the husbands and wives of such parties shall be competent to give evidence in such proceeding: Provided that no witness in any proceeding whether a party to the suit or not shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery unless such witness shall have already given evidence in the same proceeding in disproof of his or her alleged adultery.

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Persons objecting to take oath may be allowed to make declaration and be liable for perjury.

5. If any person called to give evidence in any Court of Justice whether in a civil or criminal proceeding shall object to take an oath or shall be objected to as incompetent to take an oath such person shall if the presiding Judge is satisfied that the taking of an oath would have no binding effect on his conscience make the following promise and declaration:—

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“ I solemnly promise and declare that the evidence given 20
by me to the Court shall be the truth the whole truth and
nothing but the truth.”

And any person who having made such promise and declaration shall wilfully and corruptly give false evidence shall be liable to be proceeded against indicted tried and convicted for perjury as if he had taken the 25
oath. The words “ Court of Justice ” and the words “ presiding Judge ”
in this section of this Act shall be deemed to include any person or
persons having by law authority to administer an oath for the taking
of evidence.
