

(Hon. Mr. Bowen.)

## Evidence Further Amendment.

### ANALYSIS.

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| <p>Title.<br/>Preamble.<br/>1. Short Title.<br/>2. Repeal.<br/>3. Parties in action for breach of promise of marriage.<br/>4. Parties and their husbands and wives to be witnesses in suits for adultery.</p> | <p>5. In criminal summary proceedings punishable by fine or fine and imprisonment, persons charged, and their husbands and wives, competent to give evidence, but not compellable unless the person charged has voluntarily been examined or submitted to examination.<br/>6. 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.

**W**HEREAS 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, 1875,” and it shall come into operation on the **10** thirty-first day of December, one thousand eight hundred and seventy-five. 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 **15** eighty-three of the Statutes passed in the Imperial Parliament in the No. 78—1. Repeal.

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hereof, cease to operate or be of any force in New Zealand; and on the coming into operation hereof there shall be repealed the Act of the General Assembly of New Zealand, the short title whereof is "The English Acts Act, 1854," so far (but only so far) as such last-mentioned Act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. 5 10

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. 15

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. 20

In criminal summary proceedings punishable by fine or fine or imprisonment, persons charged, and their husbands and wives, competent to give evidence, but not compellable unless the person charged has voluntarily been examined or submitted to examination.

5. Any person who, in any criminal summary proceeding before any Justice or Justices of the Peace, is charged with the commission of any offence punishable on summary conviction by a pecuniary penalty, or by a pecuniary penalty or imprisonment in the discretion of such Justice or Justices, shall be competent but not compellable to give evidence in such proceeding, and whether for or against himself or herself; and the husband of any such person if such person be a woman, and the wife of any such person if such person be a man, shall also be competent but not compellable to give evidence in such proceeding, and whether for or against his wife or her husband, as the case may be: Provided however that if such person so charged shall have voluntarily given evidence in such proceeding, or have voluntarily submitted himself or herself to cross-examination in such proceeding, he or she, and the husband or wife, as the case may be, of such person, shall be not only competent but compellable to give evidence in such proceeding, and whether for or against himself or herself, and for or against his wife or her husband, as the case may be. 25 30 35 40

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

6. 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:— 45

"I solemnly promise and declare that the evidence given by me to the Court shall be the truth, the whole truth, and nothing but the truth." 50

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 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. 55