

Hon. Mr. Reeves.

EVIDENCE FURTHER AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>(1.) <i>Evidence of Witnesses in Prison.</i></p> <p>3. Judge may order prisoner to be brought up as witness.</p> <p>4. Expenses of bringing up prisoner.</p> <p>(2.) <i>Indemnity to Witnesses in certain cases.</i></p> <p>5. In certain cases any person may be examined.</p> <p>6. No excuse that evidence may incriminate him.</p>	<p>7. Penalty for refusal to give evidence.</p> <p>8. Such person making true discovery to be freed from all penalties.</p> <p>(3.) <i>Ministers and Medical Men.</i></p> <p>9. All confessions to ministers privileged. Confessions to medical men privileged in civil proceedings. Proviso.</p> <p>(4.) <i>Newspaper Proprietors, Editors, and Reporters.</i></p> <p>10. Repeal.</p> <p>11. Articles, &c., in newspapers privileged. Proviso.</p>
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A BILL INTITULED

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

Title.

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

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1. The Short Title of this Act is "The Evidence Further Amendment Act, 1895."

Short Title.

2. In this Act, if not inconsistent with the context,—

Interpretation.

"Court" includes Supreme Court, District Court, and Magistrate's Court:

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"Judge" means a Judge of the Supreme Court or the District Court, and includes a Stipendiary Magistrate:

"Minister" means an "Officiating Minister" under "The Marriage Act, 1880":

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"Prisoner" means any person confined in any prison under any sentence or any commitment for trial or otherwise:

"Proceeding" includes any action, suit, trial, inquiry, cause, or matter, whether civil or criminal, depending or to be inquired of or determined in any Court.

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(1.) *Evidence of Witnesses in Prison.*

3. On application in that behalf by any person who states on oath that any prisoner can give material evidence in any proceeding before a Court or Judge, the Judge in his discretion may, by order under his hand, require such prisoner to be brought up for examination as a witness in such proceeding.

Judge may order prisoner to be brought up as a witness.

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Such order shall operate and be obeyed in like manner in all things as a writ of *habeas corpus* duly issued out of the Supreme Court.

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4. In every civil proceeding the Judge shall, and in every other proceeding he may, before making the aforesaid order, require the applicant therefor to deposit a sum sufficient to pay the expense of bringing up the prisoner, maintaining him whilst out of prison, and returning him thither, including the expense of his custody from the time he leaves until the time he returns to the prison.

Expenses of bringing up prisoner.

(2.) *Indemnity to Witnesses in certain cases.*

In certain cases any person may be examined.

5. In any proceeding in any Court or before any Justices for the breach of any enactment relating to—

- (1.) The duties of Customs;
- (2.) The sale of intoxicating liquors; or
- (3.) Distillation;
- (4.) *Beer duty*,—

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the Judge or the Justices may require any person to be examined as a witness.

No excuse that evidence may incriminate him.

6. No person so required to be examined as aforesaid shall be excused from being so examined, or from answering any question put to him touching such breach as aforesaid, on the ground that his evidence will tend to incriminate him.

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Penalty for refusal to give evidence.

7. If any such person refuses to ~~make oath~~ *be examined* or to answer any such question as aforesaid, he shall be deemed to be a witness appearing under subpoena and refusing without lawful cause or excuse to be sworn or to give evidence.

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Such person making true discovery to be freed from all penalties.

8. (1.) Every such person who—
 (a.) Is required to be examined as aforesaid in any Court or before Justices touching any such breach as aforesaid, and, upon such examination,
 (b.) Makes to the best of his knowledge true and faithful discovery of all matters as to which he is so examined touching such breach, and thereby

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(c.) Gives evidence tending to incriminate himself,—
 shall, upon application, receive from the Judge or Justices before whom he is examined a certificate in writing under his or their hands that he has made such true and faithful discovery as aforesaid.

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(2.) If such person receives such certificate (but not otherwise) he shall be freed from all criminal prosecutions and penal actions, and from all penalties, forfeitures, and punishments, to which he may have been liable for anything done before that time in respect of the matters touching which he has been so examined.

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(3.) *Ministers and Medical Men.*

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All confessions to ministers privileged.

9. (1.) No minister shall, without the consent of the person ~~making the~~ *alleged to have made* a confession, divulge in any proceeding any confession made to him in his professional character ~~in the course of discipline enjoined by the law or practice of the Church or religious denomination to which such minister belongs.~~

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Confessions to medical men privileged in civil proceedings.

(2.) No physician or surgeon shall, without the consent of his patient, divulge in any civil proceeding (unless the sanity of the patient be the matter in dispute,) any communication which was made to him in his professional character by such patient, and which was necessary to enable him to prescribe or act for such patient:

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Provide.

Provided that nothing in this section contained shall protect any communication made for a criminal purpose, or prejudice the right to give in evidence or use any statement or representation at any time made to or by any physician or surgeon in or about the effecting by any person of an insurance on the life of himself or of any other person.

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Repeal.

10. Section seven of "The Evidence Further Amendment Act, 1885," is hereby repealed.

New clause.

(4.) Newspaper Proprietors, Editors, and Reporters.

5 11. No newspaper proprietor, editor, or reporter shall be com-
 10 pelled to disclose in any proceeding the name of the writer of any
 article, letter, or paragraph appearing without such name in the
 literary columns of any newspaper which may be the property of such
 proprietor, or upon which such editor or reporter may have been
 engaged at the time of the publication in such newspaper of such
 article, letter, or paragraph: Provided that nothing herein contained
 shall be held to lessen the personal responsibility of such proprietor,
 editor, or reporter in respect of such publication.

Articles, &c., in newspapers privileged.

Proviso.