

WESTERN AUSTRALIA

ANNO TRIGESIMO QUARTO

VICTORIÆ REGINÆ

No. 10

An Act for the further amendment of the Law of Evidence. [Assented to 2nd January, 1871.]

32 & 33 Vic.,  
c. 68, secs. 2, 3, 4  
(Imperial); 33 &  
34 Vic., c. 49, s. 1  
(Imperial)

WHEREAS the removal of restrictions on the admissibility of witnesses in Courts of Justice in England has recently been effected by the provisions of the 'Evidence further Amendment Act, 1869,' and the 'Evidence Amendment Act, 1870,' and it is expedient that the Laws regulating the admissibility of witnesses in Courts of Justice in this Colony should be assimilated to the laws in force in England: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Section 4 of  
16 Vic., No. 9,  
and part of sec-  
tion 2 of 18 Vic.,  
No. 14, repealed

1. The fourth section of No. 9 of the Ordinances passed in the sixteenth year, and so much of the second section of No. 14 of the Ordinances passed in the eighteenth year of the reign of Her present Majesty, as is contained in the words 'or in any proceeding instituted in consequence of adultery,' are hereby repealed.

Parties in actions  
for breach of  
promise of mar-  
riage to be  
witnesses

2. 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.

Parties and their  
husbands and  
wives to be wit-

3. The parties in any proceeding instituted in consequence of adultery, and the husbands and wives of such parties, shall be com-

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*Evidence*

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petent 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.

nesses in suits  
for adultery

4. If any person called to give evidence in any Court of Justice, or before any person or persons having by law authority to administer an oath for the taking of evidence, 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, or other person or persons having by law authority as aforesaid, is or are satisfied that the taking of an oath would have no binding effect on his conscience, make the following promise and declaration:

Persons object-  
ing to take oath  
may be allowed  
to make declara-  
tion, and be  
triable for  
perjury

‘I solemnly promise and declare that the evidence given by me 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 indicted, tried and convicted for perjury, as if he had taken an oath.

5. This Act may be cited for all purposes as ‘The Evidence further Amendment Act, 1871.’

Short title

FREDK. A. WELD,  
GOVERNOR AND COMMANDER-IN-CHIEF.

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