



ANNO TRICESIMO TERTIO

# VICTORIÆ REGINÆ.

A.D. 1869-70.

## No. 10.

*An Act for the further amendment of the Law of Evidence.*

[Assented to, 9th February, 1870.]

**W**HEREAS it is expedient to amend the Law of Evidence by re-  
moving certain restrictions on the admissibility of witnesses,  
with the object of promoting the discovery of truth in Courts of  
Justice—Be it therefore Enacted by the Governor of the Province of  
South Australia, with the advice and consent of the Legislative  
Council and House of Assembly of the said Province, in this present  
Parliament assembled, as follows:—

Preamble

1. So much of the third section of the Act of the said Province  
No. 2 of 1852, entitled "An Act to amend the Law of Evidence,"  
as is contained in the words "That nothing herein contained shall  
apply to any action, suit, or proceeding in the Supreme Court of the  
said Province instituted in consequence of adultery or of breach of  
promise of marriage," is hereby repealed.

Part of sec. 3 of No. 2  
of 1852 repealed.

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 corro-  
borated by some other material evidence in support of such promise.

Parties in actions for  
breach of promise of  
marriage.

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

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

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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.

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

4. 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 Judge, Commissioner, Magistrate, or Justice of the Peace presiding in such Court be satisfied that the taking of an oath would have no binding effect on the conscience of such person, make the following promise and declaration :—

“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.”

And any person who, having made such promise and declaration, shall wilfully and corruptly give false evidence shall be liable to be tried and convicted for perjury as if he had taken an oath.

Short title.

5. This Act may be cited for all purposes as the “Evidence Further Amendment Act, 1869.”

In the name and on behalf of the Queen I hereby assent to this Act.

JAMES FERGUSSON, Governor.