

EVIDENCE (AMENDMENT) ACT.

Act No. 3, 1922.

George V, No. 3. **An Act to amend the law of evidence ; and for that purpose to repeal certain provisions of the Evidence Act, 1898, and the Matrimonial Causes Act, 1899. [Assented to, 15th August, 1922.]**

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the “Evidence (Amendment) Act, 1922.”

Amendment of Evidence Act, 1898. **2.** Section eleven of the Evidence Act, 1898, is repealed, and the following new section is inserted in place thereof :—

Communications during marriage. **11.** (1) A husband shall be competent but not compellable to disclose communications made between him and his wife during the marriage, and a wife shall be competent but not compellable to disclose communications made between her and her husband during the marriage. (2)

(2) Where a husband and wife are both parties to a proceeding under the Matrimonial Causes Act, 1899, each of them shall be competent and compellable to disclose such communications.

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(3) This section applies to communications made before as well as after the commencement of this Act.

3. The Evidence Act, 1898, is amended by the insertion of the following new sections after section fifty-five:—

Amendment
of Evidence
Act, 1898.

56. When any question put to a witness in cross-examination is not relevant to the cause or proceeding, except so far as the truth of the matter suggested by the question affects the credit of the witness by injuring his character, the court shall have a discretion to disallow the question, if in its opinion the matter is so remote in time, or of such a nature that an admission of its truth would not materially affect the credibility of the witness.

Limits of cross-examination.
cf. Order 36 & 38
R.S.C., 1883.
cf. Indian
Evidence Act,
1872, s. 148.
cf. Viet. Act,
No. 2,647, s. 35.

57. The court may forbid any question or inquiry which it regards as indecent or scandalous, although the question or inquiry may have some bearing on the questions before the court, unless they relate to facts in issue or to matters necessary to be known in order to determine whether or not the facts in issue existed.

Indecent or
scandalous
questions.
cf. Indian
Evidence
Act, 1872,
s. 151.
cf. Viet. Act,
No. 2,647,
s. 37.

58. The court may forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the court to be needlessly offensive in form.

Questions
intended to in-
sult and annoy.
cf. Indian
Evidence Act,
1872, s. 152.
cf. Viet. Act,
No. 2,647, s. 38.

59. It shall not be lawful without the express permission of the court for any person to print or publish any question or inquiry which has been forbidden or disallowed by the court, on any of the grounds mentioned in sections fifty-six, fifty-seven, and fifty-eight of this Act.

Prohibited
question not to
be published.
cf. Viet. Act,
No. 2,647, s. 39.

4. Section eighty of the Matrimonial Causes Act, 1899, is hereby repealed.

Repeal of s. 80
of Matrimonial
Causes Act,
1899.