

No. XIII.

EVIDENCE LAW. **An Act further to amend the Law of Evidence.**
[22nd August, 1854.]

Preamble. **W**HEREAS the Law of Evidence requires further amendment Be it therefore enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows :—

Part of 16 Vic. No. 14 repealed.

1. So much of section four of the Act of Council passed in the sixteenth year of Her present Majesty's reign for amending the Law of Evidence as provides that nothing in that Act contained shall apply to any action suit proceeding or bill in consequence of seduction or shall render any party competent to give evidence in his own favor where it shall appear that the person with whom the cause of action suit or proceeding arose is dead lunatic or absent from the Colony is hereby repealed.

Examination of parties *de bene esse* or under commission.

2. In all cases in which any person not being a party to the suit action or proceeding may now be examined as a witness *de bene esse* or under a commission it shall be lawful for the Court or a Judge to order or permit any party to the suit action or proceeding to be so examined on such terms in all respects as the Court or Judge may think reasonable and every examination thereupon taken if the same would have been admissible in the case of an ordinary witness may be read in evidence at the trial or hearing accordingly.

Proviso.

3. Provided that no *de bene esse* examination shall be allowed under the last preceding clause on the ground of intended departure from the Colony or to remote parts within the same unless it be shewn to the satisfaction of the Court or Judge that such departure is in fact urgently required by unavoidable circumstances or some unexpected emergency and that the examination is not sought in order to avoid cross-examination before the Court or a Jury.