

LAWS OF THE UNITED KINGDOM

THE EVIDENCE FURTHER AMENDMENT ACT 1869

(32 & 33 Vict. c. 68)

An Act for the further Amendment of the Law of Evidence

[9th August 1869]

Evidence Acts 1806 to 1895. For the Acts (including this Act) which may be cited together by this collective title, see the Introductory Note to the Witnesses Act 1806, p. 802, *ante*.

Northern Ireland. This Act applies.

1. (*Rep. by the S.L.R. Act 1883.*)

2. Parties in actions for breach of promise of marriage

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.

NOTE

General Note. This is the only instance where corroborative evidence is required before a plaintiff can recover in a civil action. Corroboration is also required in affiliation proceedings.

The section applies to all breach of promise actions brought in this country wheresoever the promise was made (*Hansen v. Dixon* (1906), 96 L.T. 32).

The plaintiff cannot give corroborative evidence of the promise (*Owen v. Moberly* (1900), 64 J.P. 88), and the evidence in corroboration, though it need not be sufficient to prove the promise by itself, must corroborate the alleged promise and not the story of the plaintiff as to other facts (*Bessela v. Stern* (1877), 2 C.P.D. 265).

The defendant's letters or his conduct, to which witnesses other than the plaintiff have testified, may afford such corroboration, but, unless there is reason to expect him to do so (see *Spooner v. Godfrey* (1908), Times, 16th October, C.A.), the fact that the defendant does not answer a letter in which it is stated that he or she has made a promise of marriage, will not by itself amount to evidence in corroboration (*Wiedemann v. Walpole*, [1891] 2 Q.B. 534). Yet, if the defendant does not answer when orally charged with having promised to marry, that will amount to corroborative evidence (see *Bessela v. Stern*, *supra*). The question is whether in the particular circumstances a reply to an allegation is called for. See, generally, 27 Digest (Repl.) 28, 29.

A statement which is admissible in evidence by virtue of the Civil Evidence Act 1968, s. 2, 3 or 4, pp. 911 *et seq.*, *post*, is not capable of corroborating evidence given by the maker of the statement or, as the case may be, the person who originally supplied the information from which the record containing the statement was compiled; see s. 6(4) of that Act, p. 916, *post* (not yet in force).

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

The parties to any proceeding instituted in consequence of adultery, and the husbands and wives of such parties, shall be competent to give evidence in such proceeding: . . .

NOTES

The words omitted were repealed by the Civil Evidence Act 1968, s. 16(5), p. 929, *post*. This section was repealed so far as it relates to the High Court by the Supreme Court of Judicature (Consolidation) Act 1925, s. 226 and Sch. 6; see now s. 198 of that Act, Vol. 17, title Husband and Wife.

4. (*Rep. by the Oaths Act 1888, s. 6 and Schedule.*)

5. Short title

This Act may be cited for all purposes as "The Evidence Further Amendment Act, 1869."

6. Extent of Act

This Act shall not extend to Scotland.
