



ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

C A P. XX.

An Act to alter and amend an Act of the Fifteenth Year of Her present Majesty for amending the Law of Evidence in *Scotland*. [9th May 1853.]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows.

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| <p>I. The Second Section of the Act of the Fifteenth Year of Her present Majesty, Chapter Twenty-seven, is hereby repealed.</p> | <p>§ 2. of
15 & 16 Vict.
c. 27. re-
pealed.</p> |
| <p>II. So much of the First Section of the said Act as provides that "it shall not be competent to adduce as a Witness in any Action or Proceeding any Person who shall at the Time when he is so adduced as a Witness be acting as Agent in the Action or Proceeding in which he is so adduced, excepting in so far as the same may be competent by the existing Law and Practice of <i>Scotland</i>," is hereby repealed.</p> | <p>So much of
§ 1. of
15 & 16 Vict.
c. 27. as
to Incom-
petency of
Persons who
are Agents
in Actions
being Wit-
nesses, re-
pealed.</p> |
| <p>III. It shall be competent to adduce and examine as a Witness in any Action or Proceeding in <i>Scotland</i> any Party to such Action or Proceeding,</p> | <p>As to Exa-
mination of
Witnesses,
whether</p> |

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named in
the Record
or not.

Proceeding, or the Husband or Wife of any Party, whether he or she shall be individually named in the Record or Proceeding or not; but nothing herein contained shall render any Person, or the Husband or Wife of any Person, who in any Criminal Proceeding is charged with the Commission of any indictable Offence, or any Offence punishable on summary Conviction, competent or compellable to give Evidence for or against himself or herself, his Wife or her Husband, excepting in so far as the same may be at present competent by the Law and Practice of *Scotland*, or shall render any Person compellable to answer any Question tending to criminate himself or herself, or shall in any Proceeding render any Husband competent or compellable to give against his Wife Evidence of any Matter communicated by her to him during the Marriage, or any Wife competent or compellable to give against her Husband Evidence of any Matter communicated by him to her during the Marriage.

This Act not
to apply to
Cases of
Adultery,&c.

IV. Nothing herein contained shall apply to any Action, Suit, or Proceeding instituted in *Scotland* in consequence of Adultery, or for dissolving any Marriage, or for Breach of Promise of Marriage, or in any Action of Declarator of Marriage, Nullity of Marriage, putting to Silence, Legitimacy, or Bastardy, or in any Action of Adherence or Separation.

Adducing of
Party as a
Witness not
to have
Effect of
Reference to
his Oath.

V. The adducing of any Party as a Witness in any Cause or Proceeding by the adverse Party shall not have the Effect of a Reference to the Oath of the Party so adduced: Provided always, that it shall not be competent to any Party who has called and examined the opposite Party as a Witness thereafter to refer the Cause or any Part of it to his Oath, and that in all other respects the Right of Reference to Oath shall remain as at present established by the Law and Practice of *Scotland*.

Not to affect
Authority of
Courts as to
Judicial Exa-
mination.

VI. Nothing herein contained shall alter or affect the Authority or Practice of the Courts in *Scotland* as to Judicial Examination.

LONDON :

Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty 1853.