ANNO DECIMO QUARTO & DECIMO QUINTO

VICTORIÆ REGINÆ.

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C A P. XCIX.

An Act to amend the Law of Evidence.

[7th *August* 1851.]

WHEREAS it is expedient to amend the Law of Evidence in divers Particulars: Be it therefore 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:

Recited Proviso in s. 1. of 6 & 7 Vict. c. 85. repealed.

I. So much of Section One of the Act of the Sixth and Seventh Years of Her present Majesty, Chapter Eighty-five, as provides that the said Act shall "not render competent any Party to any Suit, " Action, or Proceeding individually named in the Record, or any " Lessor of the Plaintiff, or Tenant of Premises sought to be recovered " in Ejectment, or the Landlord or other Person in whose Right any " Defendant in Replevin may make Cognizance, or any Person in " whose immediate and individual Behalf any Action may be brought " or defended, either wholly or in part," is hereby repealed.

Parties to be admissible Witnesses.

II. On the Trial of any Issue joined, or of any Matter or Question, or on any Inquiry arising in any Suit, Action, or other Proceeding in any Court of Justice, or before any Person having by Law, or by

Consent of Parties, Authority to hear, receive, and examine Evidence, the Parties thereto, and the Persons in whose Behalf any such Suit, Action, or other Proceeding may be brought or defended, shall, except as herein-after excepted, be competent and compellable to give Evidence, either *vivâ voce* or by Deposition, according to the Practice of the Court, on behalf of either or any of the Parties to the said Suit, Action, or other Proceeding.

Nothing herein to compel Person charged with criminal Offence to give Evidence tending to criminate himself, &c.

III. But nothing herein contained shall render 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, or shall render any Person compellable to answer any Question tending to criminate himself or herself, or shall in any criminal Proceeding render any Husband competent or compellable to give Evidence for or against his Wife, or any Wife competent or compellable to give Evidence for or against her Husband.

Not to apply to Proceedings in consequence of Adultery, &c.

IV. Nothing herein contained shall apply to any Action, Suit, Proceeding, or Bill in any Court of Common Law, or in any Ecclesiastical Court, or in either House of Parliament, instituted in consequence of Adultery, or to any Action for Breach of Promise of Marriage.

Nothing to repeal any Provisions of 7 W. 4. & 1 Vict. c. 26.

V. Nothing herein contained shall repeal any Provision contained in Chapter Twenty-six of the Statute passed in the Session of Parliament holden in the Seventh Year of the Reign of King *William* the Fourth and the First Year of the Reign of Her present Majesty.

Common Law Courts authorized to compel Inspection of Documents whenever Equity would grant Discovery.

VI. Whenever any Action or other legal Proceeding shall henceforth be pending in any of the Superior Courts of Common Law at *Westminster* or *Dublin*, or the Court of Common Pleas for the County Palatine of *Lancaster*, or the Court of Pleas for the County of *Durham*, such Court and each of the Judges thereof may respectively, on Application made for such Purpose by either of the Litigants, compel the opposite Party to allow the Party making the Application to inspect all Documents in the Custody or under the Control of such opposite Party relating to such Action or other legal Proceeding, and, if necessary, to take examined Copies of the same, or to procure the same to be duly stamped, in all Cases in which previous to the passing of this Act a Discovery might have been obtained by filing a Bill or by any other Proceeding in a Court of Equity at the Instance of the Party so making Application as aforesaid to the said Court or Judge.

Foreign and Colonial Acts of State,

VII. All Proclamations, Treaties, and other Acts of State of any Foreign State or of any *British* Colony, and all Judgments, Decrees, Orders,

Orders, and other judicial Proceedings of any Court of Justice in any Foreign State or in any *British* Colony, and all Affidavits, Pleadings, and other legal Documents filed or deposited in any such Court, may be proved in any Court of Justice, or before any Person having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, either by examined Copies or by Copies authenticated as herein-after mentioned; that is to say, if the Document sought to be proved be a Proclamation, Treaty, or other Act of State, the authenticated Copy to be admissible in Evidence must purport to be sealed with the Seal of the Foreign State or *British* Colony to which the original Document belongs; and if the Document sought to be proved be a Judgment, Decree, Order, or other judicial Proceeding of any Foreign or Colonial Court, or an Affidavit, Pleading, or other legal Document filed or deposited in any such Court, the authenticated Copy to be admissible in Evidence must purport either to be sealed with the Seal of the Foreign or Colonial Court to which the original Document belongs, or, in the event of such Court having no Seal, to be signed by the Judge, or, if there be more than One Judge, by any One of the Judges of the said Court, and such Judge shall attach to his Signature a Statement in Writing on the said Copy that the Court whereof he is a Judge has no Seal; but if any of the aforesaid authenticated Copies shall purport to be sealed or signed as herein-before respectively directed, the same shall respectively be admitted in Evidence in every Case in which the original Document could have been received in Evidence, without any Proof of the Seal where a Seal is necessary, or of the Signature, or of the Truth of the Statement attached thereto, where such Signature and Statement are necessary, or of the judicial Character of the Person appearing to have made such Signature and Statement.

Judgments, &c. provable by certified Copies, without Proof of Seal or Signature or judicial Character of Person signing the same.

VIII. Every Certificate of the Qualification of an Apothecary which shall purport to be under the Common Seal of the Society of the Art and Mystery of Apothecaries of the City of *London* shall be received in Evidence in any Court of Justice, and before any Person having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, without any Proof of the said Seal or of the Authenticity of the said Certificate, and shall be deemed sufficient Proof that the Person named therein has been from the Date of the said Certificate duly qualified to practise as an Apothecary in any Part of *England* or *Wales*.

Apothecaries Certificates admissible without Proof of Seal.

IX. Every Document which by any Law now in force or hereafter to be in force is or shall be admissible in Evidence of any Particular in any Court of Justice in *England* or *Wales* without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the

Documents admissible without Proof of Seal, &c. in England or Wales

equally admissible in Ireland.

the same, shall be admitted in Evidence to the same Extent and for the same Purposes in any Court of Justice in *Ireland*, or before any Person having in *Ireland* by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same.

Documents admissible without Proof of Seal, &c. in Ireland equally admissible in England and Wales.

X. Every Document which by any Law now in force or hereafter to be in force is or shall be admissible in Evidence of any Particular in any Court of Justice in *Ireland* without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same, shall be admitted in Evidence to the same Extent and for the same Purposes in any Court of Justice in *England* or *Wales*, or before any Person having in *England* or *Wales* by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same.

Documents admissible without Proof of Seal, &c. in England, Wales, or Ireland equally admissible in the Colonies.

XI. Every Document which by any Law now in force or hereafter to be in force is or shall be admissible in Evidence of any Particular in any Court of Justice in *England* or *Wales* or *Ireland* without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same, shall be admitted in Evidence to the same Extent and for the same Purposes in any Court of Justice of any of the *British* Colonies, or before any Person having in any of such Colonies by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same.

Registers of British Vessels and Certificates of Registry admissible as primâ facie Evidence of their Contents, without Proof of Signature, &c.

XII. Every Register of a Vessel kept under any of the Acts relating to the Registry of British Vessels may be proved in any Court of Justice, or before any Person having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, either by the Production of the Original or by an examined Copy thereof, or by a Copy thereof purporting to be certified under the Hand of the Person having the Charge of the Original, and which Person is hereby required to furnish such certified Copy to any Person applying at a reasonable Time for the same, upon Payment of the Sum of One Shilling; and every such Register or such Copy of a Register, and also every Certificate of Registry, granted under any of the Acts relating to the Registry of *British* Vessels, and purporting to be

signed as required by Law, shall be received in Evidence in any Court of Justice, or before any Person having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, as *primâ facie* Proof of all the Matters contained or recited in such Register when the Register or such Copy thereof as aforesaid is produced, and of all the Matters contained or recited in or endorsed on such Certificate of Registry when the said Certificate is produced.

Where necessary to prove Conviction or Acquittal of Person charged, not necessary to produce Record, but may be certified under Hand of Clerk of Court.

XIII. And whereas it is expedient, as far as possible, to reduce the Expense attendant upon the Proof of criminal Proceedings: Be it enacted, That whenever in any Proceeding whatever it may be necessary to prove the Trial and Conviction or Acquittal of any Person charged with any indictable Offence, it shall not be necessary to produce the Record of the Conviction or Acquittal of such Person, or a Copy thereof, but it shall be sufficient that it be certified or purport to be certified under the Hand of the Clerk of the Court or other Officer having the Custody of the Records of the Court where such Conviction or Acquittal took place, or by the Deputy of such Clerk or other Officer, that the Paper produced is a Copy of the Record of the Indictment, Trial, Conviction, and Judgment or Acquittal, as the Case may be, omitting the formal Parts thereof.

Examined or certified Copies of Documents admissible in Evidence.

XIV. Whenever any Book or other Document is of such a public Nature as to be admissible in Evidence on its mere Production from the proper Custody, and no Statute exists which renders its Contents provable by means of a Copy, any Copy thereof or Extract therefrom shall be admissible in Evidence in any Court of Justice, or before any Person now or hereafter having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, provided it be proved to be an examined Copy or Extract, or provided it purport to be signed and certified as a true Copy or Extract by the Officer to whose Custody the Original is intrusted, and which Officer is hereby required to furnish such certified Copy or Extract to any Person applying at a reasonable Time for the same, upon Payment of a reasonable Sum for the same, not exceeding Fourpence for every Folio of Ninety Words.

Certifying a false Document a Misdemeanor.

XV. If any Officer authorized or required by this Act to furnish any certified Copies or Extracts shall wilfully certify any Document as being a true Copy or Extract, knowing that the same is not a true Copy or Extract, as the Case may be, he shall be guilty of a Misdemeanor, and be liable, upon Conviction, to Imprisonment for any Term not exceeding Eighteen Months.

Court, &c. may administer Oaths.

XVI. Every Court, Judge, Justice, Officer, Commissioner, Arbitrator, or other Person, now or hereafter having by Law or by Consent

Consent of Parties Authority to hear, receive, and examine Evidence, is hereby empowered to administer an Oath to all such Witnesses as are legally called before them respectively.

Persons forging Seal, Stamp, or Signature of certain Documents, or wilfully uttering same, guilty of Felony.

XVII. If any Person shall forge the Seal, Stamp, or Signature of any Document in this Act mentioned or referred to, or shall tender in Evidence any such Document with a false or counterfeit Seal, Stamp, or Signature thereto, knowing the same to be false or counterfeit, he shall be guilty of Felony, and shall upon Conviction be liable to Transportation for Seven Years, or to Imprisonment for any Term not exceeding Three Years nor less than One Year, with Hard Labour; and whenever any such Document shall have been admitted in Evidence by virtue of this Act, the Court or the Person who shall have admitted the same may, at the Request of any Party against whom the same is so admitted in Evidence, direct that the same shall be impounded and be kept in the Custody of some Officer of the Court or other proper Person for such Period and subject to such Conditions as to the said Court or Person shall seem meet; and every Person who shall be charged with committing any Felony under this Act, or under the Act of the Eighth and Ninth Years of Her present Majesty, Chapter One hundred and thirteen, may be dealt with, indicted, tried, and, if convicted, sentenced, and his Offence may be laid and charged to have been committed, in the County, District, or Place in which he shall be apprehended or be in Custody; and every Accessory before or after the Fact to any such Offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his Offence laid and charged to have been committed, in any County, District, or Place in which the principal Offender may be tried.

Act not to extend to Scotland.

XVIII. This Act shall not extend to *Scotland*.

Interpretation of "British Colony."

XIX. The Words "*British* Colony" as used in this Act shall apply to all the *British* Territories under the Government of the *East India* Company, and to the Islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, and *Man*, and to all other Possessions of the *British* Crown, wheresoever and whatsoever.

Commencement of Act.

XX. This Act shall come into operation on the First Day of *November* in the present Year.

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