CAP. 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:

§ 2. of 15 & 16 Vict. c. 27. repealed;

I. The Second Section of the Act of the Fifteenth Year of Her present Majesty, Chapter Twenty-seven, is hereby repealed.

and so much of § 1. as to Incompetency of Persons who are Agents in Actions being Witnesses.

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adduced, excepting in so far as the same may be competent by the "existing Law and Practice of *Scotland*," is hereby repealed.

As to Examination of Witnesses, whether named in the Record or not.

III. It shall be competent to adduce and examine as a Witness in any Action or Proceeding in *Scotland* any Party to such Action or 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 Examination.

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

CAP. XXI.

An Act to authorize the Legislature of the Province of *Canada* to make Provision concerning the Clergy Reserves in that Province, and the Proceeds thereof. [9th *May* 1853.]

3 & 4 Vict. c. 78.

'WHEREAS the Act of the Session of Parliament holden in the Third and Fourth 'Years of Her Majesty, Chapter Seventy-eight, provides for the Sale of the Lands 'called Clergy Reserves in the Province of *Canada*, and for the Distribution of the Proceeds 'thereof;