

LAWS OF THE UNITED KINGDOM

THE EVIDENCE ACT 1843

(6 & 7 Vict. c. 85)

An Act for improving the Law of Evidence

[22nd August 1843]

The short title was given to this Act by the Short Titles Act 1896.

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.] Witnesses not to be excluded from giving evidence by incapacity from crime or interest - In courts of equity defendant may be examined on behalf of the plaintiff or any co-defendant, etc.

No person offered as a witness shall hereafter be excluded by reason of incapacity from crime or interest from giving evidence, either in person or by deposition, according to the practice of the court, on the trial of any issue joined, or of any matter or question or on any inquiry arising in any suit, action, or proceeding, civil or criminal, in any court, or before any judge, jury, sheriff, coroner, magistrate, officer, or person having, by law or by consent of parties, authority to hear, receive, and examine evidence; but . . . every person so offered may and shall be admitted to give evidence on oath, or solemn affirmation in those cases wherein affirmation is by law receivable, notwithstanding that such person may or shall have an interest in the matter in question, or in the event of the trial of any issue, matter, question, or inquiry, or of the suit, action, or proceeding in which he is offered as a witness, and notwithstanding that such person offered as a witness may have been previously convicted of any crime or offence . . . : Provided also, that this Act shall not repeal any provision in the Wills Act, 1837: Provided that in courts of equity any defendant to any cause pending in any such court may be examined as a witness on the behalf of the plaintiff or of any co-defendant in any such cause, saving just exceptions; and that any interest which such defendant so to be examined may have in the matters or any of the matters in question in the cause shall not be deemed a just exception to the testimony of such defendant, but shall only be considered as affecting or tending to affect the credit of such defendant as a witness.

NOTES

The words omitted were repealed by the Evidence Act 1851 s. 1; the S.L.R. Act 1874 (No. 2) and the S.L.R. Act 1891.

Infamous persons. At common law persons convicted of an offence, such as perjury or forgery, which involved infamy, were incompetent as witnesses.

Competency of parties. The words repealed in this section preserved the incapacity of parties, and their husbands and wives, as witnesses; but see now the Evidence Act 1951, s. 2, p. 816, *post*; the Evidence Amendment Act 1853, s. 1, p. 822, *post*; the Evidence Further Amendment Act 1869, ss. 2 and 3, p. 846, *post*; and the Criminal Evidence Act 1898, ss. 1 and 4, pp. 865, 869, *post*.

See generally, as to competency of witnesses, 15 Halsbury's Laws (3rd Edn.) 418, 419 and 22 Digest (Repl.) 381 *et seq*.

Wills Act 1837. See Vol. 39, title Wills.

2. In legal proceedings not necessary to state that any jurors had made affirmation

. . . Wherever in any legal proceedings whatever legal proceedings may be set out, it shall not be necessary to specify that any particular persons who acted as jurors had made affirmation instead of oath, but it may be stated that they served as jurymen, in the same manner as if no Act had passed for enabling persons to serve as jurymen without oath.

NOTE

The words omitted were repealed by the S.L.R. Act 1891.

NOTES

Public document. This means a document made by a public officer for the purpose of the public making use of it and being able to refer to it (*Sturla v. Freccia* (1880), 5 App. Cas. 623; [1874-80] All E.R. Rep. 657; *Lilley v. Pettit*, [1946] K.B. 401; [1946] 1 All E.R. 593). A document made for a temporary purpose is not a public document (*Mercer v.* [incomplete])

3. (*Rep. by the S.L.R. Act 1874 (No. 2).*)

4. Extent of Act

. . . Nothing in this Act shall extend to Scotland.

NOTE

The words omitted were repealed by the S.L.R. Act 1891.
