

ANNO OCTAVO

## VICTORIÆ REGINÆ.

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## No. I.

An Act for improving the Law of Evidence. LAW OF EVIDENCE.  
[26th June, 1844.]

**W**HIEREAS the inquiry after truth in Courts of Justice is often obstructed by incapacities created by the present law and it is desirable that full information as to the facts in issue both in criminal and in civil cases should be laid before the persons who are appointed to decide upon them and that such persons should exercise their judgment on the credit of the witnesses adduced and on the truth of their testimony Now therefore be it enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That 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 in the Colony of New South Wales but that 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 injury 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 that this 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 or the husband or wife of such persons respectively Provided also that this Act shall not repeal any provision in a certain Act passed in the Session of Parliament holden in the seventh year of the reign of His late Majesty and in the first year of the reign of Her present Majesty intituled “*An Act for the amendment of the Laws with respect to Wills*” which said last mentioned Act was adopted and applied in the administration of justice in New South Wales by a certain Act of His Excellency the Governor and Legislative Council thereof passed in the third year of the reign of Her present Majesty intituled “*An Act for adopting a certain Act of Parliament intituled ‘An Act for the amendment of the Laws with respect to Wills’ in the administration of justice in New South Wales in like manner as other Laws of England*”

Preamble.Witnesses not to be excluded from giving evidence by incapacity from crime or interest.Proviso.Not to repeal any provision in 7 Wm. IV. and 1 Vic. c. 26.

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*Apprenticeship.*

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In Courts of Equity  
defendant may be  
examined on behalf  
of the plaintiff or any  
co-defendant.

*“ England are applied therein ”* Provided further 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.

As to suits com-  
menced before  
passing this Act.

2. And be it enacted That nothing in this Act shall apply to or affect any suit action or proceeding brought or commenced before the passing of this Act.

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