

# ARTICLE XXXV.

## EVIDENCE.

2. See article 40 of the Declaration of Rights.

3. Under this section, a party to the cause may not testify as to the services she rendered the defendant's testatrix and the amounts she received therefor. This class of testimony does not fall within the principle that the court will not reverse when competent evidence favorable to the plaintiff has been first excluded and afterwards admitted, because no injury was done; counsel need not continue to object to like testimony in order to avail himself of an exception. *Glering v. Sauer*, 120 Md. 297.

Under this section, testimony of the plaintiff, the effect of which would be to show that certain deposits in a savings bank to his deceased wife's credit were made with his individual money in which she had no interest, and also the testimony of one of the defendants as to acts and declarations of his deceased mother relative to the earning and deposit of the profits from her business, are excluded: *contra*, as to said defendant being sent to the bank by his father with his deceased mother's savings. *Martin v. Munroe*, 121 Md. 684.

The object of this section was to remove restrictions and not to impose them; it is only where the suit is upon a cause of action to which one party is dead that the other party is excluded from testifying, in order to preserve mutuality. *Temple v. Bradley*, 119 Md. 608.

The application of the latter portion of this section dealing with the corroboration of impeached testimony, is limited to parties to the cause who have been examined as witnesses. *Cross v. State*, 118 Md. 670.

4. See article 22 of the Declaration of Rights.

14. This section refers only to such imprisoned witnesses as are committed by magistrates. *N. Y., P. & N. R. R. Co. v. Waldron*, 116 Md. 449.

16. Where testimony is taken under this section, unless a question is objected to as leading at the taking of the testimony, such objection cannot be made at the hearing, and this is true although the objector was not represented at the taking of the testimony. *Doggett v. Tatham*, 116 Md. 151.

17. While the practice in regard to taking depositions under this section has not been definitely established, a party upon whom notice has been served may attend in person and cross-examine the witnesses; and if he does so, he waives all objection to the admissibility of the depositions as a whole. *Goodman v. Sapperstein*, 115 Md. 681.

Cited but not construed in *Abramson v. Horner*, 115 Md. 235.

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As to witnesses before the Industrial Accident Commission, see article 101, section 7, *et seq.*

As to the manner of administering the oath, see article 39 of the Declaration of Rights.

See also article 3, section 53, of the Md. Constitution.