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| <p>85. Copies of records from office of state tax commissioner.</p> <p>86. Copy of records of State Roads Commission.</p> <p>87. Copy of judicial proceedings not required to be recorded.</p> | <p>88. Where transcript of record might be offered in evidence, sufficient to produce original papers.</p> <p style="text-align: center;">Presumptions of Survivorship.</p> <p>89. According to age, sex, etc.</p> |
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Competency of Witnesses.

An. Code, 1924, sec. 1. 1912, sec. 1. 1904, sec. 1. 1888, sec. 1. 1864, ch. 109, sec. 1.

1. 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 courts, in the trial of any issue joined or hereafter to be 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, justice of the peace or other 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, 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 offense; but no person who has been convicted of the crime of perjury shall be admitted to testify in any case or proceeding whatever; and the parties litigant and all persons in whose behalf any suit, action or other proceeding may be brought or defended, themselves, and their wives and husbands shall be competent and compellable to give evidence in the same manner as other witnesses, except as hereinafter excepted.

Parties; husbands and wives; interest.

The portion of this section making parties and their wives and husbands "competent and compellable to give evidence," applies to civil cases only; this is true notwithstanding the repeal by act of 1876, ch. 357, of third section of act of 1864, ch. 109 (see sec. 4). Object of evidence act. *Turpin v. State*, 55 Md. 475. And see *Davis v. State*, 38 Md. 65 (dissenting opinion); *Grand United Order, etc., v. Merklin*, 65 Md. 584; *Classen v. Classen*, 57 Md. 511.

The portion of this section making parties litigant competent witnesses; applied. *Flickinger v. Wagner*, 46 Md. 600. And see *Crane v. Barkdoll*, 59 Md. 537; *Le Brun v. Le Brun*, 55 Md. 503; *Barnum v. Barnum*, 42 Md. 323; *Semmes v. Worthington*, 38 Md. 324.

A party who takes an interest under a will is a legal and competent witness to prove it, and the devise or bequest to him is valid. *Leitch v. Leitch*, 114 Md. 336; *Hammett v. Shanks*, 41 Md. 219; *Harris v. Pue*, 39 Md. 549; *Estep v. Morris*, 38 Md. 426.

By evidence act of 1864, the disqualification of witnesses arising from interest, was to a great extent, but not wholly, removed—see sec. 3. *Bowman v. Little*, 101 Md. 319 (supplemental opinion); *Wright v. Gilbert*, 51 Md. 155; *Semmes v. Worthington*, 38 Md. 324.

Generally.

Act of 1864, ch. 109, held not to apply to any cases "except those of witnesses testifying under oath and subject to test of cross-examination." In other respects, it did not change common law rules of evidence. *Romer v. Jaecksch*, 39 Md. 591; *Friend v. Hamill*, 34 Md. 307.

Act of 1864, ch. 109, held not to change practice whereby, if plaintiff in an action of tort fails to make out a case against one or more of the defendants, such defendants are entitled to a verdict at once before defence is gone into. *Brinkley v. Platt*, 40 Md. 531.

A defect in an affidavit made under sec. 43 of art. 37 of Code of 1860—see sec. 64—held not to be cured by act of 1864, ch. 109. *Ward v. Leitch*, 30 Md. 334.

This section referred to in construing sec. 3—see notes thereto. *South Baltimore, etc., Co. v. Muhlbach*, 69 Md. 401; *Bowie v. Bowie*, 77 Md. 312; *Biggs v. McCurley*,