

76 Md. 411; *Whitridge v. Whitridge*, 76 Md. 76; *Robertson v. Mowell*, 66 Md. 532; *Hardy v. Chesapeake Bank*, 51 Md. 596; *First National Bank v. Eccleston*, 48 Md. 163 (dissenting opinion); *Graves v. Spedden*, 46 Md. 538; *Sanborn v. Lang*, 41 Md. 115; *Miller v. Motter*, 35 Md. 432; *Johnson v. Heald*, 33 Md. 368; *Schull v. Murray*, 32 Md. 17.

This section referred to in construing sec. 4—see notes thereto. *Davis v. State*, 38 Md. 45. (And see dissenting opinion, p. 57.)

As to the law prior to act of 1864, ch. 109 (evidence act), see *Bowman v. Little*, 101 Md. 319; *Semmes v. Worthington*, 38 Md. 324; *Downes v. Maryland and Delaware R. R. Co.*, 37 Md. 101; *Williams v. Brailsford*, 25 Md. 144; *Cunningham v. Dwyer*, 23 Md. 232.

Cited but not construed in *Harward v. Harward*, 173 Md. 356.

Cited but not construed in *Gambrell v. Parker*, 31 Md. 5.

See sec. 9 and art. 23, sec. 165.

See notes to art. 16, sec. 189.

An. Code, 1924, sec. 2. 1912, sec. 2. 1904, sec. 2. 1896, ch. 249.

2. No person engaged in, connected with or employed on a newspaper or journal shall be compelled to disclose, in any legal proceeding or trial or before any committee of the legislature or elsewhere, the source of any news or information procured or obtained by him for and published in the newspaper on and in which he is engaged, connected with or employed. See art. 40 of the Declaration of Rights.

An. Code, 1924, sec. 3. 1912, sec. 3. 1904, sec. 3. 1888, sec. 2. 1864, ch. 109, sec. 2. 1868, ch. 116. 1876, ch. 222. 1888, ch. 315. 1902, ch. 495. 1904, ch. 661.

3. In actions or proceedings by or against executors, administrators, heirs, devisees, legatees or distributees of a decedent as such, in which judgments or decrees may be rendered for or against them, and in proceedings by or against persons incompetent to testify by reason of mental disability, no party to the cause shall be allowed to testify as to any transaction had with, or statement made by the testator, intestate, ancestor or party so incompetent to testify, either personally or through an agent since dead, lunatic or insane, unless called to testify by the opposite party, or unless the testimony of such testator, intestate, ancestor or party incompetent to testify shall have already given in evidence, concerning the same transaction or statement, in the same cause, on his or her own behalf or on behalf of his or her representative in interest; nor shall it be competent, in any case, for any party to the cause who has been examined therein as a witness, to corroborate his testimony when impeached by proof of his own declaration or statement made to third persons out of the presence and hearing of the adverse party; provided, however, this section shall not apply to pending cases nor in anywise affect the present rights of litigants therein.

Incompetency of parties as to transactions, etc., with deceased.

The fact that witness was permitted to testify to transactions with decedent does not weaken or destroy judgment except when reviewed on appeal. *Watkins v. State*, 162 Md. 616.

In action against owner of automobile, based on negligence of her husband, since deceased, in driving it, she was not incompetent as witness under this section. *Forbstein v. General Tire Co.* (unreported case), 167 Md. 686.

In action by mother to recover damages for wrongful death of daughter, held that mother's testimony was not inadmissible under this section. *Riley v. Lukens Dredging & Contracting Corp.*, 4 F. Supp. 144.

This section not violated in suit by decedent's widow, as administratrix, to establish decedent's ownership of certain corporate stock, by admission in evidence of the proceedings in former suit by decedent's widow and infant children to impress a trust in same stock, the widow not appearing to have testified in former proceedings. *Horowitz v. Horowitz*, 175 Md. 25.

Suit against executor, husband of deceased, to annul gifts *inter vivos* of bank accounts made by deceased to husband, held to be within this section so as to render inadmissible testimony as to statements made by deceased. *Tillinghast v. Lamp*, 168 Md. 35.