Person to whom alleged gift *causa mortis* is made cannot testify as to conversation between him and donor as to what the gift was and the terms and conditions thereof. Garner *v.* Garner, 171 Md. 616.

Cited but not construed in Wetzel *v.* Collin, 170 Md. 386.

The portion of this section disqualifying a party from testifying relative to transactions with or statements made by the deceased, applied; witness being competent, however, to testify to other facts. Russell *v.* Carman, 114 Md. 35; Lowe *v.* Lowe, 111 Md. 115; Koogle *v.* Cline, 110 Md. 607; Lanahan *v.* Cockey, 108 Md.. 625; Zimmerman *v.* Frushour, 108 Md. 119; Smith *v.* Humphreys, 104 Md. 288; Gerting *v.* Wells, 103 Md. 631; Cross *v.* Iler, 103 Md. 596; Shipley *v.* Mercantile Trust Co., 102 Md. 657; Brewer *v.* Bowersox, 92 Md. 575. And see Cacy *v.* Slay, 127 Md. 496; Temple *v.* Bradley, 119 Md. 608; Bright *v.* Ganas, 171 Md. 500.

A witness may testify to transactions had with or statements made by the testator, etc., if called by "the opposite party." Who is an "opposite party" within contemplation of this section? Cross *v.* Iler, 103 Md. 596; Duvall *v.* Hambleton, 98 Md. 15; Whitridge *v.* Whitridge, 76 Md. 76. (*Cf.* opinion of the lower court, p. 62, and dissenting opinion, p. 87); Foley *v.* Bitter, 34 Md. 651.

Where a defendant testifies at the first trial of a case, but dies pending an appeal, plaintiff cannot testify at second trial to any transaction had with or statements made by such defendant, unless called by opposite party, or unless the testimony of defendant is put in evidence on second trial. Keyser *v.* Warfield, 103 Md. 169.

The admissibility of testimony depends upon the competency of witness at time he testifies; hence, the death of a party before the hearing, cannot render inadmissible testimony already taken. Armitage *v.* Snowden, 41 Md. 123.

A plaintiff in a suit against administrators is incompetent to prove her marriage to intestate, either directly or indirectly. Bowman *v.* Little, 101 Md. 295. (*Cf.* dissenting opinion, p. 308; and see supplemental opinion, p. 317.) See also Redgrave *v.* Redgrave, 38 Md. 96; Denison *v.* Denison, 35 Md. 381.

Act of 1902, ch. 495, did not except pending cases from its operation; that act, however, did not re-enact the provisions of the act of 1888, ch. 315, but made a radical change in the law by which a party to a contract is permitted to testify where the other party is dead, except in actions by or against executors or administrators in which judgments or decrees may be rendered against them. Hence where a suit was instituted in 1897, a man who was not then a competent witness, became competent under act of 1902. Act of 1904, ch. 661, provided that it should not apply to pending cases. Harford Natl. Bank *v.* Rutledge, 124 Md. 54.

This section does not make a husband incompetent to testify to transactions between his wife and a decedent in a suit by her against such decedent's estate because the husband might be benefited by plaintiff's recovering. Marx *v.* Marx, 127 Md. 383.

Under this section, a party to the cause may not testify as to services she rendered defendant's testatrix and amounts she received therefor. This class of testimony does not fall within the principle that court will not reverse when competent evidence favorable to 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. Giering *v.* Sauer, 120 Md. 297.

Under this section, testimony of 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 testimony of one of defendants as to acts and declarations of his deceased mother relative to earning and deposit of profits from her business, are excluded; *contra,* as to said defendant being sent to bank by his father with his deceased mother's savings. Martin *v.* Munroe, 121 Md. 684.

Parties held incompetent to testify to transaction with, or statements made by, decedent; what transpires at a bank relative to a deposit in name of deceased party, is within prohibition of the statute. Farmer *v.* Farmer, 137 Md. 72.

Party to cause held incompetent to testify to transactions with, or statements by, decedent respecting gift or transfer of money and property. Chase *v.* Grey, 134 Md. 626.

This section is not applicable to the trial of issues on caveats to wills; caveators' and caveatees' evidence admissible. Hamilton *v.* Hamilton, 131 Md. 510; Griffith *v.* Benzinger, 144 Md. 595.

In a preliminary proceeding to determine whether caveators have such interest in the estate as entitles them to prosecute a caveat, executor may testify to statement made by decedent to him. Hendrickson *v.* Attick, 136 Md. 7.

Inability, in view of this section, of a party now dead to testify were she living, to transactions had with, or statements made by, testator, etc., referred to in overruling a demurrer on ground of laches; responsibility for delay. Safe Dep. & Trust Co. *v.* Coyle, 133 Md. 352.

Who is a "party to the cause"?

Where a testator's widow as next friend of infant children files a caveat to the will, she is a competent witness, not being a "party to the cause" within the meaning of this section. Object, and method of interpretation, of this section. Johnson *v.* Johnson, 105 Md. 89; Trahern *v.* Colburn, 63 Md. 103.