

This section does not exempt a nominal party. *Smith v. Humphreys*, 104 Md. 289.

In a suit by a corporation, the stockholders thereof are not "parties," and hence are competent witnesses. *Downes v. Maryland and Delaware R. R. Co.*, 37 Md. 102.

Corroboration.

The portion of this section prohibiting the corroboration of testimony of party to the cause by proof of his own declaration made out of presence of the adverse party, applied. *Maryland Steel Co. v. Engleman*, 101 Md. 685. *Cf. Gill v. Staylor*, 93 Md. 470; *Mallonee v. Duff*, 72 Md. 287. And see *Maitland v. Citizens' Bank*, 40 Md. 559.

Where party to the cause had not yet testified, there could have been no attempt to corroborate his testimony, and hence the portion of this section relative to corroboration of testimony of a party, had no application. *King v. Zell*, 105 Md. 438.

This section referred to in discussing admissibility in corroboration of testimony for the state of a party jointly indicted with traverser for same crime, of a sworn statement by such party made thirty-nine days after the commission of the crime. *Lanasa v. State*, 109 Md. 620.

While it may be that portion of this section dealing with corroborating testimony does not apply, evidence held inadmissible, being hearsay, regardless of this section. *Conservation Co. v. Stimpson*, 136 Md. 333.

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

Generally.

Legatees under will competent to testify as to statements of testator in suit between executor and another as to whether testator owned deposit account. *Schaefer v. Spear*, 148 Md. 626.

Evidence in suit against administratrix for services rendered, properly ruled out either as immaterial or as prohibited by this section. *Knight v. Knight*, 155 Md. 251.

Exclusion of evidence under this section commented on in a case involving mental capacity to execute deed of trust, and undue influence. *Callis v. Thomas*, 154 Md. 232.

In suit to have herself declared the wife of the deceased son of defendant, plaintiff could not testify as to ceremony or contract of marriage between herself and defendant's son, as she could sue only as distributee. *Whitehurst v. Whitehurst*, 156 Md. 613.

No presumption arises from failure to call witness who is disqualified. *Owing v. Dayhoff*, 159 Md. 417.

In a suit for divorce, statements made by husband to third persons out of wife's presence inadmissible to corroborate husband's statement on witness stand. *Roberts v. Roberts*, 160 Md. 513.

Where defendant, disqualified to testify on call of defense, was called by plaintiff, cross-examination properly confined to testimony in chief. *Bauer v. Harman*, 161 Md. 131.

This section referred to in construing art. 93, sec. 96, and art. 35, sec. 63; *Bogart v. Willis*, 158 Md. 401.

Cited but not construed in *Hart v. Vogel*, 159 Md. 146; *Scher v. Becker*, 163 Md. 204.

This section applied in *Mays v. Mays*, 176 Md. 164.

Evidence which merely leads up to or explains testimony which is incompetent under this section, is inadmissible. *Worthington v. Worthington*, 112 Md. 142.

History of this section and changes made by the acts of 1902, ch. 495, and 1904, ch. 661. This section does not except a "nominal party." Practice where testimony is excepted to. *Smith v. Humphreys*, 104 Md. 289. And as to the practice in excepting to testimony, see *Russell v. Carman*, 114 Md. 35; *Worthington v. Worthington*, 112 Md. 140; *Brewer v. Bowersox*, 92 Md. 576. As to the history of this section, see also *Robertson v. Mowell*, 66 Md. 533.

Act of 1902, ch. 495 (re-enacting this section), omitted the provision which rendered an original party to a contract an incompetent witness, the other party being dead. Hence, since that act, such disqualification is removed. *Gittings v. Winter*, 101 Md. 205; *Justis v. Justis*, 99 Md. 81; *St. Mark's Church v. Miller*, 99 Md. 29; *Duckworth v. Duckworth*, 98 Md. 98. And see *Eareckson v. Rogers*, 112 Md. 168.

The proviso at the end of this section, applied. Parties held competent under the act of 1902, ch. 495. *Lawson v. Mullinix*, 104 Md. 171.

For cases applying and construing portion of this section which, prior to act of 1902, ch. 495, disqualified a party to a contract or cause of action from testifying where the other party was dead, lunatic, or insane, or when an executor or administrator was a party to the suit, unless a nominal party merely, see *Polk v. Clark*, 92 Md. 373; *Wienecke v. Arbin*, 88 Md. 185; *Flach v. Gottschalk Co.*, 88 Md. 377; *Warth v. Brafman*, 85 Md. 675; *Bowie v. Bowie*, 77 Md. 312; *Biggs v. McCurley*, 76 Md. 411; *Webster v. Le Compte*, 74 Md. 261; *Scott v. Amoss*, 73 Md. 83; *Gunther v. Bennett*, 72 Md. 386; *South Baltimore, etc., Co. v. Muhlbach*, 69 Md. 401; *Canton v. McGraw*, 67 Md. 586; *Robertson v. Mowell*, 66 Md. 532; *Grand United Order, etc., v. Merklin*, 65 Md. 583; *Neale v. Hermanns*, 65 Md. 478; *Horner v. Frazier*, 65 Md. 10; *Love v. Dilley*, 64 Md. 242; *Trahern v. Colburn*, 63 Md. 104; *Owens v. Crow*, 62 Md. 497; *Dilley v. Love*, 61 Md. 607; *Diffenbach v. Vogeler*, 61 Md. 378; *Swartz v. Chickering*,