

munication made to him by his wife during the marriage, nor shall any wife be compellable to disclose any communication made to her by her husband during the marriage.

Testimony of party to suit may be rebutted.

4. In all cases where a party to any suit, action or other proceeding shall be examined by any opposing party, the testimony given on said examination may be rebutted by adverse testimony and by proof of admission made by the party so examined.

Not applicable in cases of adultery, divorce and breach of promise of marriage.

5. Nothing in any of the preceding sections contained, authorizing the examination of the parties litigant, and making them competent witnesses, shall apply to any suit, action, bill or other proceeding instituted in consequence of adultery, or for the purpose of obtaining a divorce, or to any action for breach of promise of marriage.

Evidence of interest or infamy of witness.

Sub-Sec. 1. In all cases it shall be competent for any of the parties to the proceedings to prove by legal evidence any facts showing the interest of any witness in the matter in controversy, or in the event of the suit or the conviction of such witness of any infamous crime; and, in order to prove such conviction, it shall not be necessary to produce the whole record of proceedings containing such conviction, but the certificate, under seal of the clerk of the court wherein such proceedings were had, stating the fact of the conviction, and for what crime, shall be sufficient.

Proof of conviction.

In force from June 1, 1864.

NOTE—Sub-Sec. 2, of above act, excluding negro testimony where white persons are concerned, is omitted. See Const. 1867, Art. III, sec. 53.

COMMISSION TO TAKE EVIDENCE FROM OTHER STATES.

1862, c. 147 repeals section 33 and substitutes the following:

1862, c. 147.
Commissions from other states.

33. Whenever any commission or process in the nature of a commission to take testimony, shall be issued by any court of any of the United States, or by any court of any district or territory of the United States, directed to any person either by name or otherwise in this state, and any witness who shall