

Smith *v.* Wood, 31 Md. 296; Williams *v.* Higgins, 30 Md. 407; Cooke *v.* Cooke, 29 Md. 550; Neidig *v.* Whiteford, 29 Md. 184.

This section referred to in construing secs. 1 and 4—see notes thereto. Turpin *v.* State, 55 Md. 475. And see Davis *v.* State, 38 Md. 57 (dissenting opinion).

Purpose and intent of evidence acts. Grove *v.* Funk, *et al.*, 131 Md. 694.

Cited but not construed in Schley *v.* Merritt, 37 Md. 358; Taylor *v.* Hill, 36 Md. 501; Elosser *v.* Fletcher, 126 Md. 251.

An. Code, sec. 4. 1904, sec. 4. 1888, sec. 3. 1864, ch. 109, sec. 3. 1876, ch. 357. 1888, ch. 545.

4. In the trial of all indictments, complaints and other proceedings against persons charged with the commission of crimes and offenses, and in all proceedings in the nature of criminal proceedings in any court of this State, and before a justice of the peace or other officer acting judicially, the person so charged shall at his own request, but not otherwise, be deemed a competent witness; but the neglect or refusal of any such person to testify shall not create any presumption against him. In all criminal proceedings the husband or wife of the accused party shall be competent to testify; but in no case, civil or criminal, shall any husband or wife be competent to disclose any confidential communication made by the one to the other during the marriage; and in suits, actions, bills or other proceedings instituted in consequence of adultery, or for the purpose of obtaining a divorce, or for damages for breach of promise of marriage, no verdict shall be permitted to be recovered, nor shall any judgment or decree be entered upon the testimony of the plaintiff alone; but in all such cases testimony in corroboration of that of the plaintiff shall be necessary.

Where there is no possibility of collusion the corroboration required by this section in divorce cases need be slight. Abandonment made out. Heimmuller *v.* Heimmuller, 133 Md. 494.

A divorce will not be granted on the ground of cruelty where plaintiff's evidence is not corroborated. Dicus *v.* Dicus, 131 Md. 88.

Where traverser voluntarily becomes a witness but remains silent as to pertinent matters, the state's attorney is entitled to comment before the jury upon his silence and other conduct on witness stand. Brashears *v.* State, 58 Md. 567.

In a prosecution for bigamy, the first wife of the accused is a competent witness against him under this section, though she cannot be compelled to testify. Richardson *v.* State, 103 Md. 117.

The portion of sec. 1 making parties and their wives and husbands "competent and compellable to give evidence," applies to civil cases only; this is true notwithstanding repeal by act of 1876, ch. 357, of third section of act of 1864, ch. 109. Turpin *v.* State, 55 Md. 475; Classen *v.* Classen, 57 Md. 511. And see Davis *v.* State, 38 Md. 65 (dissenting opinion).

Under act of 1864, ch 109, an accessory before the fact was incompetent to testify for a principal felon, and this is true although they were indicted and tried separately. Davis *v.* State, 38 Md. 49 (*cf.* dissenting opinions, pages 57 and 64).

In a divorce case where the only testimony corroborating plaintiff is that of a witness who gives it as her opinion that the separation is deliberate and final, but who states no facts as a basis for such opinion, such corroboration is not sufficient. This section construed in connection with art. 16, sec. 38. Twigg *v.* Twigg, 107 Md. 677. And see Goodhues *v.* Goodhues, 90 Md. 292.

The portion of this section providing for the corroboration of the plaintiff's testimony in a suit for divorce, held to prevent a decree. Tomkey *v.* Tomkey, 130 Md. 295; Rodgers *v.* Rodgers, 142 Md. 561.

See art. 22 of the Declaration of Rights.

As to divorce and the effect of an admission by the defendant, see art. 16, sec. 37, *et seq.*

An. Code, sec. 5. 1904, sec. 5. 1888, sec. 4. 1864, ch. 109, sec. 4.

5. 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 ex-