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# LAW SERIES

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## UNIVERSITY OF MISSOURI BULLETIN.

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## NOTES ON RECENT MISSOURI CASES.

RIGHT OF COMMENT ON TESTIMONY OF DEFENDANT IN A CRIMINAL CASE.—At common law the accused in a criminal case was incompetent to testify in his own behalf.<sup>1</sup> Statutory conferment of competency in the United States began in 1864, and in only one state, Georgia, does the common law disqualification now remain in effect.<sup>2</sup> In Missouri it was removed by the statute of 1877.<sup>3</sup> That statute provided that "no person shall be incompetent to testify in criminal cases by reason of being the person on trial or examination." Such a statute does not violate the constitutional provision against compulsory self-incrimination, since the tender of testimony is always voluntary and constitutes a waiver of exemption.<sup>4</sup> And since the statute contained no limitation on the right of the state to cross-examine a defendant who took the stand, it was held that he might be treated as any other witness and fully questioned concerning

1. Bishop's New Crim. Pro., § 1181.

2. Wigmore on Evidence, § 488; and § 579 where the statutes are collected and compared.

3. Laws 1877, p. 356.

4. Bishop's New Crim. Pro., § 1183.