

and the same right of election as the heir would have had under whom he claims.

Where an heir has elected to take a certain portion of the estate but dies before giving bond, his heir succeeds to the original heir's rights, and it is not necessary to go into equity to complete proceeding. What proceedings are necessary in such case. *Jenkins v. Simms*, 45 Md. 536. And see *Chaney v. Tipton*, 3 Gill, 334.

A purchaser of interest of eldest son is entitled to his election under this section. *Jarrett v. Cooley*, 6 H. & J. 258; *Chaney v. Tipton*, 11 G. & J. 255.

This section referred to in construing secs. 17 and 20. *Catlin v. Catlin*, 60 Md. 580.

An. Code, 1924, sec. 22. 1912, sec. 47. 1904, sec. 47. 1888, sec. 47. 1820, ch. 191, sec. 13.

**23.** If any person entitled to make election to take the estate of any intestate as aforesaid shall be absent from the county, or not residing therein at the time when such election ought to be made, and shall not appear in court and elect, or refuse to elect to take the said estate, or any part thereof, as the case may be, the court shall pass an order, to be published in some convenient newspaper at least four weeks successively, giving notice of the return and confirmation of the commission, and appointing some day in the term next succeeding that in which the said order shall be passed, for such absent person to appear in court and make his election, as aforesaid, and on proof being made to the satisfaction of the court of the due publication as aforesaid, and on the non-appearance of the person so absent, it shall be lawful for the person next entitled to come in and make election in the same manner as if the person so absent had appeared and refused to take the estate.

Cited but not construed in *Catlin v. Catlin*, 60 Md. 581; *Jenkins v. Simms*, 45 Md. 536.

An. Code, 1924, sec. 23. 1912, sec. 48. 1904, sec. 48. 1888, sec. 48. 1820, ch. 191, sec. 31.

**24.** If any person entitled to make election as aforesaid shall be *non compos mentis*, or otherwise disqualified to declare his intention, in such case the person next entitled shall be authorized to make his election in the same manner as if the person disqualified had refused to make election.

Cited but not construed in *Catlin v. Catlin*, 60 Md. 581; *Jenkins v. Simms*, 45 Md. 536.

An. Code, 1924, sec. 24. 1912, sec. 49. 1904, sec. 49. 1888, sec. 49. 1820, ch. 191, secs. 32, 33.

**25.** In case the eldest male shall not be of age to make his election, it shall be lawful for the eldest female if of the age of twenty-one years, to elect to take the lands at the valuation of the commissioners, notwithstanding the existence of any male minor; and any husband may elect to take in right of his wife.

Election to take whole estate and a settlement therefor vests legal title in party electing without a deed from the commissioners, and this is true although the election is made by husband in right of his wife. *Stevens v. Richardson*, 6 H. & J. 156.

This section referred to in construing secs. 17 and 20. *Catlin v. Catlin*, 60 Md. 580. Cited but not construed in *Jenkins v. Simms*, 45 Md. 536.

An. Code, 1924, sec. 25. 1912, sec. 50. 1904, sec. 50. 1888, sec. 50. 1827, ch. 208, sec. 2.

**26.** Every person entitled to elect or refuse to take the whole or any part of any estate at the value ascertained and returned by the commissioners may make such election or refusal in writing, to be signed by such person in the presence of one or more witnesses, who shall attest the same in writing; and such written election or refusal, when filed with the clerk among the proceedings in the case, shall have the same effect and validity as if such person had made his election or refusal in open court.

This section referred to in construing secs. 17 and 20. *Catlin v. Catlin*, 60 Md. 581. Cited but not construed in *Jenkins v. Simms*, 45 Md. 536.