

administered by the original executor, *Hagthorp v. Hook*, 1 G. & J. 270. By sub-ch. 14 of that Act, Code, Art. 93, sec. 70,⁴ the authority conferred on him is restrained to assets not converted into money and not distributed and delivered, or retained by the executor or former administrator under the Court's direction; and in *Sibley v. Williams* it was said to be clear that the legislature, in the passage of this law, did not mean to make anything the subject of administration in the hands of the administrator *de bonis non* which did not exist in *specie*. The Act of 1820, ch. 174, sec. 3, Code, Art. 93, sec. 72,⁵ it was also there held, extended only to bonds, notes, accounts, and evidences of debt, which the deceased executor or administrator may have taken, received or had, as executor or administrator, and to money in his hands, and gave power to the administrator *de bonis non* to recover the same by action on the bond, but it did not give a similar remedy as to property which has not been converted into money, and for which no evidence of debt has been taken, but which has been wasted or destroyed. This Act has been the subject of several decisions. It is clear, that, as to property within its provisions, the administrator *de bonis non* represents every body who is capable of having any sort of claim against or right

letters *d. b. n.* is nugatory and improper. *Wilcoxon v. Reese*, 63 Md. 545; *Myers v. Safe Deposit Co.*, 73 Md. 425.

Questions have frequently arisen as to what constitutes a complete distribution, especially with reference to leasehold property bequeathed for life with remainder over. In addition to the cases cited above, the following may also be referred to: *Foos v. Scarf*, 55 Md. 301; *Matthews v. Turner*, 64 Md. 109; *Woelfel v. Evans*, 74 Md. 346; *Myers v. Forbes*, 74 Md. 360; *Kopp v. Herrman*, 82 Md. 339; *Drovers' Bank v. Hughes*, 83 Md. 355; *Siechrist v. Bose*, 87 Md. 292; *Crean v. McMahon*, 106 Md. 507. See particularly the last named case as to the validity of a legatee's title to leasehold property without distribution, where he takes possession of it with the executor's assent.

It must be remembered that distribution is a matter *in pais*, unless the executor or administrator desires to make it the act of the court for his own protection. *Biays v. Roberts*, 68 Md. 513; *Myers v. Safe Dep. Co.*, 73 Md. 424; *Baker v. Bowie*, 74 Md. 474. But see now as to leasehold property the Act of 1884, ch. 49, (Code 1911, Art. 93, sec. 139), which requires a deed under the order of the Orphans Court from the executor or administrator to the legatee or distributee.

The grant of letters *d. b. n.* to one who has no claim to administer, or interest in the estate, on *ex parte* application without legal notice or summons to those entitled to administer, is irregular and the letters should be revoked. *Wilcoxon v. Reese*, 63 Md. 542. When a probated will is declared void by the Court of Appeals, administration *c. t. a.* granted on *ex parte* application and distribution made under such administration are also void. *Smith v. Stockbridge*, 39 Md. 640.

⁴ Code 1911, Art. 93, sec. 70. As to the "person entitled" to letters *d. b. n.* under this section, see *Georgetown College v. Browne*, 34 Md. 450; *Bowie v. Bowie*, 73 Md. 232; *Brodie v. Mitchell*, 85 Md. 516.

⁵ Code 1911, Art. 93, sec. 72.