Where a legacy is given to a married woman who dies before the testator and without issue, but leaving a brother and a husband, the latter is entitled to one-half of the legacy. Vogel *v.* Turnt, 110 Md. 200; Harris *v.* Harris, 12 G. & J. 474.

Where a widow renounces her husband's will, there being no child, this section applies. Coomes *v.* Clements, 4 H. & J. 483. And see Griffith *v.* Griffith, 4 H. & McH. 101 and note (a).

1904, art. 93, sec. 122. 1888, art. 93, sec. 123. 1860, art. 93, sec. 124. 1798, ch. 101, sub-ch. 11, sec. 4. 1898, ch. 331.

123. The surplus, exclusive of the share of the surviving husband or widow, as the case may be, or the whole surplus (if there be no surviving husband or widow), shall go as follows.

Ibid. sec. 123. 1888, art. 93, sec. 124. 1860, art. 93, sec. 125. 1798, ch. 101, sub-ch. 11, sec. 5.

124. If there be children and no other descendants, the surplus shall be divided equally amongst them.

This section applied. Schaub *v.* Griffin, 84 Md. 563.

Ibid. sec. 124. 1888, art. 93, sec. 125. 1860, art. 93, sec. 126. 1798, ch. 101, sub-ch. 11, sec. 6.

125. If there be a child or children, and a child or children of a deceased child, the child or children of such deceased child shall take such share as his, her or their deceased parent would (if alive) be entitled to; and every other descendant or other descendants in existence at the death of the intestate shall stand in the place of his or their deceased ancestor; provided, that if any child or descendant shall have been advanced by the intestate by settlement, or portion, the same shall be reckoned in the surplus; and if it be equal or superior to a share, such child or descendant shall be excluded, but the widow shall have no advantage by bringing such advancement into reckoning; and maintenance or education, or money given without a view to a portion or settlement in life shall not be deemed advancement; and in all cases those in equal degree claiming in the place of an ancestor shall take equal shares.

An advancement defined. Where an advancement is brought into hotchpot, its value must be estimated as of the time it was received. Clark *v.* Willson, 27 Md. 703.

The courts construe this section liberally to enforce the maxim that "equality is equity". A gift to a daughter or her husband is presumed to be an advancement in the absence of proof to the contrary. Proof held to show an advancement. McCabe *v.* Brosenne, 107 Md. 494; Dilley v. Love, 61 Md. 604; Graves *v.* Spedden, 46 Md. 527; Parks *v.* Parks, 19 Md. 323; Stewart *v.* Pattison, 8 Gill, 54; *cf.* Justis *v.* Justis, 99 Md. 80; Pole *v.* Simmons, 45 Md. 250; Cecil *v.* Cecil, 20 Md. 156; Cecil *v.* Cecil, 19 Md. 80.

Where an advancement is created by a written instrument, the character and design of the advancement may be shown by parol evidence. Stewart *v.* State, 2 H. & G. 119.

To a full defense of an action at law against an administrator by a child to whom advances were made, it is necessary to show that the amount of the advancements was equal to or exceeded the plaintiff's share in the estate. State *v.* Jameson, 3 G. & J. 449.

This section applies only to personalty, and to cases of intestacy. Hayden *v.* Burch, 9 Gill, 83.