

is not liable for his debts. *Vogel v. Turnt*, 110 Md. 199; *Wallace v. DuBois*, 65 Md. 161; *Glenn v. Belt*, 7 G. & J. 367.

The time of the transfer under this section is the death of the testator, and those to whom the transfer is made are those in being entitled to the distribution of the legatee's estate in case of intestacy. *Hays v. Wright*, 43 Md. 125; *Glenn v. Belt*, 7 G. & J. 367.

This section in connection with article 45, sec. 7, entitles a surviving husband to dower in real estate devised to his wife, where the wife dies before the testator. *Vogel v. Turnt*, 110 Md. 201.

The terms "lapse" and "fail of taking effect", defined. *Billingsley v. Tongue*, 9 Md. 581.

This section referred to in deciding that the lapsing of a bequest of corporate stock is governed by the *lex domicilii*. *Lowndes v. Cooch*, 87 Md. 485.

A legacy saved from lapsing under this section can not be bequeathed by the legatee's will. Object of this section. The effect of a residuary bequest by A. to B. where subsequently B. dies leaving all her property to A. *Glenn v. Belt*, 7 G. & J. 365.

Estates tail general upon being converted into fee simple estates (under article 46, section 1), are saved from lapse by this section; *contra*, as to estates tail special. *Pennington v. Pennington*, 70 Md. 435.

Under the act of 1810, ch. 34, section 4, if the legacy is charged upon real estate and the legatee dies after the testator but before the time of payment, the legacy is lost. *Helms v. Franciscus*, 2 Bl. 560.

Cited but not construed in *Taylor v. Watson*, 35 Md. 529; *Darrington v. Rogers*, 1 Gill, 410.

As to the jurisdiction of equity over suits for legacies, see art. 16, sec. 97.

1904, art. 93, sec. 321. 1888, art. 93, sec. 314. 1860, art. 93, sec. 305.  
1825, ch. 119.

**327.** In every will whereby any lands or real property shall be devised to any person, and no words of perpetuity or limitation are used in such devise, the devisee shall take under and by virtue of such devise the entire and absolute estate and interest of the testator in such lands or real property, unless it shall appear, by devise over or by words of limitation or otherwise, that the testator intended to devise a less estate and interest.

#### Application of this section.

A contingent limitation over is not inconsistent with a devise of a fee simple estate, and, therefore does not interfere with the application of this section. *Devecmon v. Shaw*, 70 Md. 225; *Gambrill v. Forest*, etc., Lodge, 66 Md. 25; *Estep v. Mackey*, 52 Md. 599.

This section held not to apply because it did appear that the testator intended to devise a less estate, etc. *Fairfax v. Brown*, 60 Md. 55; *Stonebreaker v. Zollickoffer*, 52 Md. 170; *Hammond v. Hammond*, 8 G. & J. 442; *Boyle v. Parker*, 3 Md. Ch. 46.

This section does not apply where the devise is not of lands or real estate but of their rents and profits, and where it appears that the testator intended a less estate. *Boyle v. Parker*, 3 Md. Ch. 44.

Prior to the adoption of this section the law was to the contrary, and this section has no retroactive effect. *Preston v. Evans*, 56 Md. 487; *Moody v. Elliott*, 1 Md. Ch. 293; *Pue v. Pue*, 1 Md. Ch. 387.

This section applied. *Whitley v. Jump*, 94 Md. 189; *Henderson v. Henderson*, 64 Md. 192.

#### Generally.

This section apparently grew out of the opinion in *Beall v. Holmes*, 6 H. & J. 208. This section reverses the rule that a life estate passed by a general devise without words of limitation. Burden of proof. *Backus v. Presbyterian Assn.*, 77 Md. 59. And see *Shreve v. Shreve*, 43 Md. 402; *Hammond v. Hammond*, 8 G. & J. 441.