

and of payments and disbursements made by such administratrix, or that may have been received or paid by him, and not before accounted for with the court; and the account so rendered shall, if found by the court to be correct, be admitted to record as other administration accounts, in cases where the administratrix rendered them in person; and in case of refusal of the husband to render such account, the court may proceed against him by attachment, and may commit him until he shall render such account.

This section does not authorize husband to administer property left unadministered by deceased administratrix. *Gavin v. Carling*, 55 Md. 536.

An. Code, sec. 13. 1904, sec. 13. 1888, sec. 13. 1785, ch. 80, sec. 8.  
1798, ch. 101, sub-ch. 8, sec. 2.

13. The orphans' court shall have power to make allowance to any administrator or collector for property of the decedent which hath perished or been lost without the fault of the party; and no profit shall be made and no loss sustained by an administrator in the increase or decrease of the estate under his management; but the administrator shall return an inventory and account for such increase, and may be allowed for such decrease on the settlement of the final or other account.

Cited but not construed in *Gibbons v. Riley*, 7 Gill, 84.

#### Administration.

An. Code, sec. 14. 1904, sec. 14. 1888, sec. 14. 1798, ch. 101, sub-ch. 5, sec. 2. 1865, ch. 162.

14. Whenever any person shall die intestate, leaving in this State personal estate, letters of administration may forthwith be granted by the orphans' court of the county wherein was the party's mansion house or residence; or in case he had no mansion or residence within the State, letters shall be granted in the county where the party died; and in case the party neither had mansion or residence nor died within this State, letters may be granted in the county wherein lies or is supposed to lie a considerable part of the party's personal estate. Nevertheless whenever any person shall die, leaving in this State property subject to administration, the said letters of administration shall be granted in the county wherein was the mansion house or residence of the deceased; provided, he had such property lying in said county.

#### Residence.

The orphans' court to which application is made for letters has jurisdiction to determine question of residence; such question held to have been correctly determined. *Oberlander v. Emmel*, 104 Md. 260. And see *Stanley v. Safe Deposit Co.*, 87 Md. 453; *Ensor v. Graff*, 43 Md. 293.

The word "residence" as used in this section means fixed and permanent home or domicile of deceased as distinguished from a place of temporary abode; letters can only be properly granted by orphans' court of county in which deceased had his domicile at time of his death. The general rule is that in absence of a decree of separation or divorce legal domicile of wife follows that of her husband. The orphans' court is authorized and required to determine residence of deceased at time of his death, and its decision cannot be reviewed in collateral proceedings. *Whiting v. Shipley*, 127 Md. 117.

The legal effect of the admission of a will to probate held, in so far as case at bar was concerned, to conclusively establish testator's residence or domicile at time of her death. *Harding v. Schapiro*, 120 Md. 549.