

An. Code, sec. 316. 1904, sec. 312. 1888, sec. 306. 1882, ch. 481.

325. Such consent in writing shall be filed and recorded in the office of the register of wills for Baltimore city, and the office of the register of wills for the several counties, and a copy thereof shall also be filed with the report of sales of such lands and tenements.

See notes to sec. 326.

An. Code, sec. 317. 1904, sec. 313. 1898, ch. 331, sec. 306A.

326. The provisions of the preceding sections 310 to 325, both inclusive, relating to the rights of widows in the estates of their husbands, shall apply to and be enforced in favor of surviving husbands, so as to give to, vest in and confer upon surviving husbands the same rights in the estates of their deceased wives, which said sections 310 to 325, both inclusive, give to, vest in and confer upon widows in the estates of their deceased husbands.

Undoubtedly the better form in which to present an issue upon execution of a will is to adopt as nearly as possible language of statute or else by the insertion of names to make issue as framed a concrete one of fact only. A departure from this rule involves the danger of tendering an issue at law only, in which event it becomes duty of trial court to refuse to submit such issue to jury. When an issue is one of law and when one of fact, and when a mixed question of law and fact. *McSherry v. Winsatt*, 116 Md. 653; *Bowers v. Cook*, 132 Md. 439.

The wife cannot by will or otherwise deprive her husband of his one-third share provided for by this section. A husband held not to have waived or renounced his claim under this section; hence his executor was entitled to recover same. *Barroll v. Brice*, 115 Md. 502.

This section referred to in holding that there was nothing to show that a conveyance of personal property executed in lifetime of wife was in fraud of legal rights of her husband who survived her. A person has right in her lifetime to dispose of her personal property as she sees fit. *Brown v. Fidelity Trust Co.*, 126 Md. 184.

The provisions of this section apply where wife dies subsequently to January 1, 1899 (date act of 1898, ch. 331, went into effect), regardless of when marriage took place. Cases distinguished. What property husband is not entitled to a distributive share of. This section is valid. *Safe Deposit Co. v. Gittings*, 103 Md. 495; *Jeavons v. Pittman*, 126 Md. 656.

Under this section and sec. 311 where a husband renounces, the costs of caveat proceedings should be borne by estate passing under will, and husband should not be charged with any part of them. *Grabill v. Plummer*, 95 Md. 61.

As to husband's interest in deceased wife's personal property, see sec. 125, *et seq.*
As to the husband's dower, see art. 45, sec. 7.

Wills.

An. Code, sec. 318. 1906, ch. 59.

327. No devise or bequest hereafter made or heretofore made in any will or testament which shall hereafter be probated, or any real or personal property of the value of five thousand dollars or less, in trust or otherwise, for the purpose of providing for the perpetual care or keeping in good order and condition, or making repairs to any lot, vault, mausoleum or other place of sepulture belonging to any individual or several individuals, in any cemetery or graveyard intended for the burial of the members of the family, family connections, relatives or friends of the owner thereof, or of their successors in ownership, shall be held to be void as offending the rule against perpetuities.