

Meaning of "residence"; appeal. To first note to this section, page 2871, vol. 2, of Code, add *Pattison v. Firor*, 146 Md. 247.

Cited but not construed in *Norfolk v. Connor*, Daily Record, Jan. 22, 1935.

**16.**

In a collateral proceeding to which administrator is not a party, finding of Orphans' Court as to date of death of decedent neither binds parties nor is *prima facie* evidence of such fact; possible exceptions. See notes to sec. 243. *English v. United States*, 25 F. (2nd), (Dist. Ct. Md.), 335.

This section referred to in construing sec. 32. *Horton v. Horton*, 157 Md. 135.

**17.**

See notes to sec. 53.

**18.**

The "discretion" given the court under this section means that the choice shall be made after considering the relative merits and fitness of applicants and not solely at its pleasure and caprice. *Horton v. Horton*, 157 Md. 127.

Cited but not construed in *Horton v. Horton*, 158 Md. 633.

**21.**

Where intestate's next of kin are brother and half-sister, brother's appointment not subject to appeal if he possesses requisite qualifications. See secs. 23 and 24. *Mobley v. Mobley*, 149 Md. 404.

**22.**

Where there is brother, niece and nephew not entitled unless brother incompetent or declined to administer. *Mobley v. Mobley*, 149 Md. 404.

An. Code, 1924, sec. 23. 1912, sec. 23. 1904, sec. 23. 1888, sec. 23. 1798, ch. 101, sub-ch. 5, sec. 15. 1935, ch. 263.

**23.** There shall be no preference of males to females in equal degree or kin in any of the sections covering the appointment of administrators, any words to the contrary therein notwithstanding.

See notes to sec. 21.

**24.**

See notes to sec. 21.

**31.**

"Incapacity" under this section is statutory incapacity. See notes to sec. 53. *Mobley v. Mobley*, 149 Md. 408.

**32.**

It was error to grant letters of administration to decedent's widow without notifying his children and giving them opportunity to apply for grant of letters. *Horton v. Horton*, 157 Md. 127.

**37.**

Executor is protected in all lawful acts done before revocation of letters as result of caveat proceedings. *Schmidt v. Johnston*, 154 Md. 133.

To second note to this section, page 2880, vol. 2, of Code, add *Knapp v. Knapp*, 149 Md. 219.

**39.**

Cited but not construed in *Neighbors v. Beck*, 162 Md. 366.