

Descents.

An. Code, 1924, sec. 1. 1912, sec. 1. 1916, ch. 325, sec. 1.

1. If any person seized of an estate in lands, tenements or hereditaments, lying in this State, in fee simple, fee simple conditional, or in fee tail, general or special, shall die intestate thereof, said lands, tenements or hereditaments shall descend in fee simple to those persons who, according to the laws of this State now or hereafter in force relating to the distribution of the personal property of intestates, would be the distributees to take the surplus personal property of such intestate, if he had died, possessed of such, and a resident of this State; and such heirs shall take in the same proportions as are or shall be fixed by such laws relating to personal property.

Cases subsequent to act, 1916.

This section referred to in construing Trading with Enemy Act. Von Schwertdner v. Piper, 23 F. (2nd), (Dist. Ct. Md.), 865.

This section referred to in construing sec. 110 of art. 81. Darnall v. Connor, 161 Md. 219.

Cited but not construed in Brannan v. Ely, 157 Md. 103.

See notes to art. 16, sec. 242.

See notes to art. 93, sec. 138.

Cited but not construed in Horwitz v. Safe Dep. & Tr. Co., 172 Md. 449.

Cited in Second Nat. Bank v. Bank, 171 Md. 551.

Act of 1916, ch. 325, is not in conflict with art. 3, sec. 29, Md. Constitution, and does not impair vested property rights. This act operates only upon property owned by a person at time of his death and does not affect the enjoyment and ownership of property during such person's life. Widow held to take under act of 1916 one-third of real estate of her deceased husband. Key v. Key, 134 Md. 419. And see Devlin v. Devlin, 142 Md. 355.

Property not affected by act of 1916, ch. 325, since papers were executed and grantor died prior to its adoption. Kernan v. Carter, 132 Md. 586.

Cases prior to act of 1916.

A devise to a son for life and "to his children and the heirs of such children of the blood of their father," held to create a conditional fee, which under this section is converted into an unqualified fee. There was nothing in sec. 28 (An. Code 1912, repealed by act, 1916, ch. 325) conflicting with this view. B. & O. R. R. Co. v. Patterson, 68 Md. 608. And see Wells v. Beall, 2 G. & J. 458.

The word "kindred" as used in this section means heirs or relations by consanguinity. This section referred to in connection with art. 93, sec. 23. Kearney v. Turner, 28 Md. 424.

The word "seized" as used in the act of 1786, ch. 45, has reference to both legal and equitable seizin. Matthews v. Ward, 10 G. & J. 454.

For a discussion of the words "dying intestate," see Medley v. Williams, 7 G. & J. 62.

Estates tail male and estates tail female are not included within definition of estates tail general as used in this section. Pennington v. Pennington, 70 Md. 436.

Persons inheriting under act of 1786, ch. 45, take as co-parceners, all constituting but one heir. Gilpin v. Hollingsworth, 3 Md. 194. And see Warfield v. Warfield, 5 H. & J. 464; Mitchell v. Gover, 1 H. & J. 512; Hoffar v. Dement, 5 Gill, 137.

Prior to act to direct descents (1786, ch. 45), right of primogeniture existed in this state as at common law. The purpose of said act and of the act of 1820, ch. 191. History of this section. Catlin v. Catlin, 60 Md. 575; Sprigg v. Moale, 28 Md. 510. And see Chelton v. Henderson, 9 Gill, 437; Stewart v. Jones, 8 G. & J. 1; Newton v. Griffith, 1 H. & G. 129; Tessier v. Wyse, 3 Bl. 38; Medley v. Williams, 7 G. & J. 70.

Estates tail have by statute been converted into fee simple estates. (See also art. 21, sec. 25.) Chew v. Chew, 1 Md. 173; Hatton v. Weems, 12 G. & J. 84; Hill v. Hill, 5 G. & J. 96; Shriver v. Lynn, 2 How. 55.

As to estates tail prior to the act of 1786, ch. 45, see Haxton v. Archer, 3 G. & J. 211; Mayson v. Sexton, 1 H. & McH. 275.

For cases dealing with act of 1786, ch. 45 (act to direct descents), as applicable to estates tail, see Wickes v. Wickes, 98 Md. 317; Stansbury v. Hubner, 73 Md. 231; Smith v. Towers, 69 Md. 98 (dissenting opinion); Mason v. Johnson, 47 Md. 356; Posey v. Budd, 21 Md. 484; Newton v. Griffith, 1 H. & G. 111; Smith v. Smith, 2 H. & J. 314 (overruled by Newton v. Griffith, 1 H. & G. 128).

This section referred to in construing secs. 19, 21 and 27 (An. Code 1912, repealed by act, 1916, ch. 325). Hoffman v. Watson, 109 Md. 544.