

For a reference to sec. 26 of this article as it stood prior to the act of 1916, ch. 325, see *Scott v. Independent Ice Co.*, 135 Md. 350.

Cited but not construed in *Billingslea v. Baldwin*, 23 Md. 108; *Phelps v. Stewart*, 17 Md. 239; *Tongue v. Nutwell*, 13 Md. 424; *Kilgour v. Ashcom*, 5 H. & J. 82.

As to the distribution of personalty, see art. 93, sec. 127, *et seq.*

As to conversion of fee tail estates into fee simple estates, see also art. 21, sec. 26.

See notes to sec. 3, and to art. 93, sec. 314.

An. Code, 1924, sec. 2. 1912, sec. 2. 1916, ch. 325, sec. 2. 1918, ch. 273, sec. 2.

2. If said intestate leave a widow or surviving husband, such widow or surviving husband shall take, as an heir, the same share or proportion of said lands, tenements or hereditaments as a widow or surviving husband takes as distributee in the personal property of her or his deceased spouse under such laws relating to personal property, and said widow or surviving husband shall hold said lands, tenements and hereditaments with the other heirs of said deceased as tenants in common, and should said lands, tenements or hereditaments be sold under a decree of any Court having jurisdiction over same in any proceedings, then it shall be unnecessary to secure the consent of said widow or surviving husband to said sale unless said widow or surviving husband shall elect to take the estate known as the dower of the widow and the dower of a surviving husband as provided for in Section 4 of this Article.

Only value of dower in real estate subject to federal estate tax. *Tait v. Safe Deposit & Trust Co.*, 70 Fed. (2nd), 79.

Cited in *Safe Deposit & Trust Co.*, 3 F. Supp. 151.

Cited but not construed in *Scher v. Becker*, 163 Md. 203.

Cited but not construed in *Hoffman v. Watson*, 109 Md. 552; *Posey v. Budd*, 21 Md. 487; *Newton v. Griffith*, 1 H. & G. 112; *Dallam v. Dallam*, 7 H. & J. 241.

As to illegitimate children, see secs. 6 and 7.

An. Code, 1924, sec. 3. 1912, sec. 3. 1916, ch. 325, sec. 3.

3. A surviving husband or widow shall take, as heir, the same share or proportion in any lands, tenements or hereditaments within this State belonging to the deceased spouse at the time of his or her death, though such deceased spouse die testate, which such surviving husband or widow would take in the personal property of a resident spouse so dying testate; but such share shall be subject to be barred by provisions in his or her favor by such will to the same extent and in the same manner as is provided by law with respect to barring dower by the acceptance of such testamentary provisions, and election not to accept said provisions shall be made in the same manner and within the same time as is so provided.

But nothing in this section shall be taken as giving a husband or wife any right of conveying, by deed *inter vivos*, his or her real estate free of any right of dower of any husband or wife therein, without the joinder of said husband or wife.

Under this and the following sections and under art. 93, sec. 314, a widow has six months from the grant of administration within which to renounce and to elect; a widow is held not to be estopped from so renouncing and electing by an agreement signed by her shortly after husband's death. No occasion to send issues to court of law. *Wilson v. Jarrell*, 137 Md. 561.

Where a widow does not elect to take her dower under sec. 4, she is entitled under this section to one-third of her husband's real estate. Contract to release dower. Where no part of husband's real estate is devised to wife, her legal rights therein are not affected by his will. *Pearre v. Grossnickle*, 139 Md. 9.

Cited but not construed in *Elwood v. Lannon*, 27 Md. 208; *Posey v. Budd*, 21 Md. 487; *Bishop v. Safe Deposit and Trust Co.*, 170 Md. 627; *Marriott v. Marriott*, 175 Md. 576.

Cited in *Safe Deposit & Trust Co.*, 3 F. Supp. 151.

See notes to secs. 1 and 2.