

such illegitimate child or children in like manner as if such illegitimate child or children had been born in lawful wedlock.

This section referred to in holding that a recovery may not be had by a mother under art. 67, sec. 2, for the death of an illegitimate child. *State v. Hagerstown, etc., Rwy. Co.*, 139 Md. 79.

This section referred to in deciding that illegitimate children were not entitled to workmen's compensation benefits. *Scott v. Independent Ice Co.*, 135 Md. 348 (decided prior to the act 1920, ch. 456).

Under this section and art. 93, sec. 142, an illegitimate child held as capable of inheriting from his mother as if he were legitimate, and his mother's surviving sister may inherit from him. *Barron v. Zimmerman*, 117 Md. 298.

Under this section, the mother of illegitimate child is entitled to share in his real and personal property just as though child were legitimate. The placing of this section under the article "inheritance" does not affect the law. This section construed in connection with art. 93, sec. 128. *Reese v. Starner*, 106 Md. 51.

Where a woman leaves an illegitimate child, he is entitled to share in her property equally with legitimate children. *Earle v. Dawes*, 3 Md. Ch. 230.

The words "dying without issue," as applied to an illegitimate, since the adoption of this section, will be construed as if used with reference to persons born in wedlock. *Estep v. Mackey*, 52 Md. 599. See also *Reese v. Starner*, 106 Md. 53.

Act of 1825, ch. 156, recognizes no father and establishes no relation of brother and sister. Extent to which disqualification of illegitimates was removed by that act. This section will be strictly construed. *Miller v. Stewart*, 8 Gill, 130 (decided prior to the act of 1868, ch. 199). And see *Reese v. Starner*, 106 Md. 53; *Brewer v. Blougher*, 14 Pet. 178.

Purpose and construction of this section. This section discussed in connection with sec. 6. *Hawbecker v. Hawbecker*, 43 Md. 520.

This section held to have no retrospective operation. *Fornshill v. Murray*, 1 Bl. 485.

This section referred to in extending the benefit of a settlement upon a wife, to a bastard son. *Helms v. Francisus*, 2 Bl. 582.

Cited but not construed in *Southgate v. Annan*, 31 Md. 116.

Cited in construing Art. 93, Sec. 314. *Rowe v. Cullen*, Daily Record, Dec. 21, 1939.

### Division and Election.

An. Code, 1924, sec. 8. 1912, sec. 32. 1904, sec. 32. 1888, sec. 32. 1820, ch. 191, secs. 8, 13, 43, 45, 46, 47. 1929, ch. 328.

8. If the parties entitled to the intestate's estate cannot agree upon the division thereof, or if any person entitled to any part be a minor, an application may be made to the Circuit Court for the county where the estate lies, or if the land lies in different counties, to the Circuit Court for the county where the greater part of the land lies, or if the land lies in the City of Baltimore, then to the Superior Court or Circuit Court or Circuit Court No. 2 of said city; and the Court shall appoint and issue a commission of five discreet, sensible persons, to be commissioners, authorizing and empowering them, or a majority of them, to proceed in the premises according to the directions of this Article, and in all respects conform to and comply with the provisions hereof; and the said commissioners, or a majority of them, before they proceed to act, shall severally take an oath (to be annexed to the said commission), before some justice of the peace for the county or city, or other person authorized to administer an oath, well and faithfully to perform the duties required of them by the commission, without favor, partiality or prejudice, and according to the best of their judgment and understanding.

What allegations are necessary to give the court jurisdiction under this section? Errors in procedure, though ground for a bill of review after decree, do not affect jurisdiction. *Tomlinson v. McKaig*, 5 Gill, 275. And see *Roser v. Slade*, 3 Md. Ch. 91; *Hughes' Case*, 1 Bl. 46; *Chaney v. Tipton*, 11 G. & J. 255; *Hardy v. Summers*, 10 G. & J. 323; *Thompson v. Tolmie*, 2 Pet. 163.

The bill or petition under this section must recognize the eldest son's right of election and must be in accordance with the descent laws. Necessary allegations. *Chaney v. Tipton*, 11 G. & J. 255.

The jurisdiction of equity, and of old county courts, in cases of partition where land is situated in one county only, is well established. The proceedings may be by *ex parte* petition or by bill and answer, but in both cases they must conform to requirements