

This section referred to in dealing with a waiver of a right to letters of administration. *Pollard v. Mohler*, 55 Md. 289.

This section referred to in construing sec. 35—see notes thereto. *Brodie v. Mitchell*, 85 Md. 518.

This section referred to in construing secs. 22 and 39—see notes thereto. *Slay v. Beck*, 107 Md. 362.

This section referred to in construing sec. 74—see notes thereto. *Kearney v. Turner*, 28 Md. 425; *Thomas v. Knighton*, 23 Md. 325.

This section construed in connection with sec. 258—see notes thereto. *McGuire v. Rogers*, 71 Md. 588.

Cited but not construed in *Georgetown College v. Browne*, 34 Md. 455.

Cited in *Baldwin v. Hopkins*, 171 Md. 101.

See notes to secs. 35 and 72.

An. Code, 1924, sec. 33. 1920, ch. 318.

34. Notwithstanding anything contained in the preceding sections, no relation of the intestate who is not entitled to share in the estate shall be entitled, as of right, to administration thereon, whether applying therefor or not, nor shall it be necessary in any case to notify any such relation; but administration may, in the discretion of the Court, be granted to such relation.

Separation agreement will not be construed to bar right of surviving spouse in other's estate unless clearly expressed or necessarily implied to the contrary. *Hewitt v. Shipley*, 169 Md. 221.

An. Code, 1924, sec. 34. 1912, sec. 33. 1904, sec. 33. 1888, sec. 34. 1798, ch. 101, sub-ch. 5, sec. 24.

35. If letters of administration are to be granted, with a copy of the will annexed, and there be a residuary legatee or legatees in such will, he or they shall be preferred to all except a widow,¹ and it shall be incumbent on the court to proceed in the manner directed by law with respect to executors within the State, before administration shall be granted to any other person; and a male residuary legatee shall be preferred to a female.

Where niece appointed administratrix on petition of one brother and the nephews and nieces of decedent but other brother filed petition for appointment, held that, since record did not show any legal grounds for disqualification or that any evidence had been taken or a hearing had on question, case be remanded to afford respective parties opportunity to be heard and have matter determined. *Phillips v. Clark*, Daily Record, June 3, 1939.

The mere fact that a person takes an estate in remainder in residue does not take her out of category of residuary legatees. When there is only one person answering to statutory description of person entitled, he must be appointed; where, however, a class of persons is entitled, orphans' court may select. The words "in the manner directed by law" relate to the provisions of secs. 32 and 33 relative to notice, so that persons entitled should have a day in court. See note to sec. 31. *McCaughy v. Byrne*, Adm., 115 Md. 88.

This section provides for cases not covered by the preceding sections, and will be read in connection with them. The widow only is preferred to residuary legatee. If for any reason letters are not granted to either widow or such legatee (after notice prescribed by sec. 47 is given), then letters will be granted in order prescribed in preceding sections. *Georgetown College v. Browne*, 34 Md. 456; *Dalrymple v. Gamble*, 66 Md. 308.

Although a widow supposing that her husband died intestate renounces, upon subsequent discovery of a will, she is entitled to notice under sec. 33 before letters *c. t. a.* are granted. *Brodie v. Mitchell*, 85 Md. 518.

Under last clause of this section a male residuary legatee is preferred to a female one, no matter how close latter may be related to testator. Who is a "residuary legatee"? *Henning v. Varner*, 34 Md. 106.

¹ *Quaere*, or a surviving husband.