

This section construed in connection with sec. 112—see notes thereto. *Bradford v. Street*, 84 Md. 278.

Cited but not construed in *Flater v. Weaver*, 108 Md. 673; *State v. Md. Casualty Co.*, 164 Md. 74.

An. Code, 1924, sec. 119. 1912, sec. 114. 1904, sec. 113. 1888, sec. 114. 1854, ch. 86, sec. 2.

**122.** The claims thus entered shall not afford any evidence as to the justness or correctness of any debt therein entered, whenever the same shall be controverted by any administrator in any suit instituted for the recovery of such debt; nor shall the same be construed to take any debt out of the operation of a plea of limitations.

This section referred to in construing sec. 232. *Schockett v. Tublin*, 170 Md. 119.

Cited but not construed in *Flater v. Weaver*, 108 Md. 672.

An. Code, 1924, sec. 120. 1912, sec. 115. 1904, sec. 114. 1888, sec. 115. 1798, ch. 101, sub-ch. 8, sec. 17. 1836, ch. 192, sec. 1. 1843, ch. 208, sec. 11.

**123.** In paying the debts of a decedent, an administrator shall observe the following rules: All taxes due and in arrear from the decedent shall be preferred to the exclusion of all other debts, and claims for rent in arrear against deceased persons, for which a distress might be levied by law, shall next have preference. Judgments and decrees shall next be wholly discharged. After such claims for taxes and rent, and judgments and decrees shall be satisfied, all other just claims shall be on equal footing without priority or preference. If there be not sufficient to discharge all such judgments and decrees, a proportionate dividend shall be made between the judgment and decree creditors.

#### **Taxes.**

Taxes due by decedent and in arrear, without being proved and passed, are preferred to exclusion of all other debts. See notes to art. 81, sec. 72. *Thompson v. Henderson*, 155 Md. 667.

Claims for taxes need not be proved or passed; the executors must take notice of, and pay them. *Bonaparte v. State*, 63 Md. 470.

Taxes constitute a preferred debt—art. 81, sec. 150.

#### **Rent.**

In settling estate, claims against decedent for rent for which distraint might issue are, after taxes in arrear, preferred debts. See notes to art. 66, sec. 32. *Calvert Bldg. Co. v. Winakur*, 154 Md. 527.

A claim for rent held to have priority under this section. *Longwell v. Ridinger*, 1 Gill, 60.

This section referred to as indicating that rent is not *per se*, a lien. *Buckey v. Snouffer*, 10 Md. 156.

As to claims for rent, see also secs. 94 and 95.

#### **Judgments and decrees.**

This section puts judgments and decrees upon the same footing in the administration of the personal estate. *Coombs v. Jordan*, 3 Bl. 320.

A judgment of another state is considered only as a contract debt in the distribution of decedent's assets in this state. *Brengle v. McClellan*, 7 G. & J. 434; *Bank of United States v. Merchants' Bank*, 7 Gill, 436.

Where the state and an individual have judgments against decedent, the judgment of state will be preferred in payment. *Contee v. Chew*, 1 H. & J. 417.

An executor is not authorized to pay a simple debt after notice of a debt by specialty. *Webster v. Hammond*, 3 H. & McH. 131.

A judgment rendered by justice of peace of this state is entitled to priority over general claims provided for by this section. *Newcomer v. Beeler*, 116 Md. 651.

#### **Generally.**

At common law the state is entitled to priority in the payment of debts of deceased, except those of record. *Murray v. Ridley*, 3 H. & McH. 174.

For a case involving the act of 1786 directing the order of the payment of debts, and the law prior thereto, see *Murray v. Ridley*, 3 H. & McH. 171.

This section referred to in construing sec. 114—see notes thereto. *Cape Sable Co.'s Case*, 3 Bl. 670.