

**Distribution.**

An. Code, 1924, sec. 124. 1912, sec. 119. 1904, sec. 118. 1888, sec. 119.  
1798, ch. 101, sub-ch. 11.

**127.** When all debts of an intestate exhibited and proved or notified and not barred shall have been discharged or settled, or allowed to be retained as herein directed, the administrator shall proceed to make distribution of the surplus as follows.<sup>1</sup>

The provisions of secs. 1-3, 106, 112, 116, 127 and 212-220 with respect to time of accounting are directory, as time of settlement is subordinate to exigencies of reasonable and prudent administration. *Goldsborough v. DeWitt*, 171 Md. 253.

Duty of administrator to make distribution promptly as provided in succeeding sections. *State v. Swift*, 170 Md. 104.

This section and the following ones have no application where there is a will. *Hokamp v. Hagaman*, 36 Md. 518.

The succession to personal property on intestacy is regulated by law of owner's last domicile. *Newcomer v. Orem*, 2 Md. 297; *Corrie's Case*, 2 Bl. 488.

This section referred to as indicating that a final account so far as debts are concerned must be stated before orphans' court can order legacies paid or distribution made. *Lowe v. Lowe*, 6 Md. 354. (See notes to sec. 126.) And see *Biddison v. Mosely*, 57 Md. 94; *Coward v. State*, 7 G. & J. 479. *Cf. Clarke v. Sandrock*, 113 Md. 426.

This and following section referred to as making plain duty of an administrator to distribute after debts are paid. *Coward v. State*, 7 G. & J. 479.

As to transfer of assets from ancillary administrator to administrator of domicile, see *Williams v. Williams*, 5 Md. 467; *Cassilly v. Meyer*, 4 Md. 1.

This section referred to in construing sec. 145—see notes thereto. *Williams v. Holmes*, 9 Md. 286.

This section referred to in construing sec. 340—see notes thereto. *Vogel v. Turnt*, 110 Md. 203.

Cited but not construed in *Myers v. Safe Deposit Co.*, 73 Md. 424; *Price v. Hitaffer*, 164 Md. 505; *State v. Brown*, 170 Md. 100; *Marriott v. Marriott*, 175 Md. 575.

See notes to sec. 126.

As to the descent of real estate, see art. 46, sec. 1, *et seq.*

An. Code, 1924, sec. 125. 1912, sec. 120. 1904, sec. 119. 1888, sec. 120. 1798, ch. 101, sub-ch. 11, sec. 1. 1898, ch. 331.

**128.** If the intestate leave a surviving husband or widow, as the case may be, and no child, parent, grandchild, brother or sister, or the child of a brother or sister of the said intestate, the said surviving husband or widow, as the case may be, shall be entitled to the whole.

For a case dealing with act of 1892, ch. 571 (sec. 32 of art. 93 of Code of 1888, now repealed), see *Brian v. Tylor*, 129 Md. 158.

Art. 46, sec. 7, construed in connection with this section. The mother of an illegitimate child is a "parent" within meaning of this section. *Reese v. Starner*, 106 Md. 52. And see *Barron v. Zimmerman*, 117 Md. 302.

Cited in construing sec. 314. *Rowe v. Cullen*, Daily Record, Dec. 21, 1939; *Marriott v. Marriott*, 175 Md. 573.

See secs. 127 and 313 to 330 and notes, and art. 45, secs. 6 and 7.

An. Code, 1924, sec. 126. 1912, sec. 121. 1904, sec. 120. 1888, sec. 121. 1798, ch. 101, sub-ch. 11, sec. 2. 1898, ch. 331.

**129.** If there be a surviving husband or widow, as the case may be, and a child or children, or a descendant or descendants from a child, the surviving husband or widow, as the case may be, shall have one-third only.

Wife cannot by will or otherwise deprive husband of his share of personalty. See notes to sec. 330. *Jaworski v. Wisniewski*, 149 Md. 115.

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

Cited but not construed in *Hillwood v. Hillwood*, 159 Md. 174; *Second Nat. Bank v. Bank*, 171 Md. 552; *Marriott v. Marriott*, 175 Md. 573.

A fund, if it was treated as personalty at date of its division between father and children of his first wife, was properly distributed. *Laches. Henderson v. Harper*, 127 Md. 432.

<sup>1</sup> As to inheritance tax, see art. 81, sec. 109, *et seq.*