

he or she shall deliver or transmit to the Court or Register of Wills where administration has been granted a written renunciation in substantially the following form or to the following effect:

I, A. B., widow or widower, as the case may be, of late of, deceased, do hereby renounce and quit all claim to any bequest or devise made to me by the last will and testament of my wife or husband, exhibited and proved according to law; and I elect to take in lieu thereof my dower in lands and my legal share of the personal estate of my said wife or husband, or my legal share of both the real and personal estate of my said wife or husband.

If the election be of dower in lands and the legal share of the personal estate, the said surviving husband or widow shall take dower in lands and one-third of the surplus personal estate (if the deceased spouse shall be survived by descendants), and dower in lands and one-half of the surplus personal estate (if the deceased spouse shall not be survived by descendants), and no more. If the election be of the legal share of both real and personal estate, the surviving husband or wife shall take one-third of the lands as an heir and one-third of the surplus personal estate (if the deceased spouse shall be survived by descendants); and one-half the lands as an heir, and one-half the surplus personal estate (if the deceased spouse shall not be survived by descendants, but shall be survived by a father or mother); and two thousand dollars or its equivalent in property, or any interest therein, at its appraised value, and one-half of the residue of the lands as an heir and one-half of the surplus personal estate remaining (if the deceased spouse shall not be survived by descendants or a father or a mother, but shall be survived by a brother or sister or a child or descendant of a brother or sister), and no more.

When testatrix left husband and illegitimate child, held that child was "descendant" within meaning of this section. Also held that allowance of \$2,000 for surviving spouse is not retroactive. *Rowe v. Cullen*, Daily Record, Dec. 21, 1939.

Where widow, ignored by husband's will, elects to take her legal share in his estate, such election is equivalent to renunciation of bequest to her in the will; rights of nephews and nieces to legacies under will have priority as against general or residuary legatees after satisfaction of widow's claims. *Marriott v. Marriott*, 175 Md. 567.

Cited but not construed in *Read v. Md. Genl. Hospital*, 157 Md. 570; *Mercantile Tr. Co. v. Schloss*, 165 Md. 29.

The words "surplus personal estate" in this section mean the entire balance of personal estate, principal and income, at the time of distribution, and widow who had renounced husband's will entitled to her legal share. *Gardner v. Mercantile Tr. Co.*, 164 Md. 281.

Where widow renounces, there being no children, she is entitled to one-half of all estate. *Levin v. Safe Dep. & Tr. Co.*, 167 Md. 43.

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

See notes to sec. 313.

Qualification of husband as executor does not prevent him from renouncing devises made to him in will. *Tillinghast v. Lamp*, 168 Md. 54.

Cited in *Bullen v. Safe Dep. & Tr. Co.*, (Judge Adams, Circuit Court No. 2 of Balto. City), Daily Record, June 9, 1939; *Safe Deposit & Trust Co.*, 3 F. Supp. 151; *Dowell v. Dowell*, Daily Record, Jan. 3, 1940.

The direction of a testator to a legatee to pay a nominal sum to testator's widow is not such a bequest to her as bars her right to one-third of personal estate in absence of a renunciation by her. The orphans' court may correct errors in administration accounts after final ratification, and abrogate and modify its own orders when necessary to promote justice. The application for such action must be made within a reasonable time; what is a reasonable time? Proof of widow's identity. See notes to sec. 322. *Malkus v. Richardson*, 124 Md. 228.

The law admits of no excuse for failure to renounce, which under this section is a condition precedent to wife's having dower. No one else can renounce for widow, and fact that she is insane is immaterial. *Collins v. Carman*, 5 Md. 530; *Kernan v. Carter*, 132 Md. 588.

An administrator may not renounce for widow; *quaere* whether a court of equity may do so where such widow is insane. Procedure where wife is insane and renunciation