

other posthumous relation shall be considered as entitled to distribution in his or her own right.

This sections means that children of an intestate born after his death shall take as if born before, but no other relation born after his death shall be entitled to take as distributee in his own right. A nephew *in esse* before intestate's death is entitled to take in right of his father although born after his father's death, provided father died before intestate. *Shriver v. State*, 65 Md. 283.

This section referred to in deciding that a next of kin can only make title to distributive share through an administrator. *Neale v. Hagthorp*, 3 Bl. 565.

See notes to art. 101, sec. 80.

An. Code, 1924, sec. 139. 1912, sec. 134. 1904, sec. 133. 1888, sec. 134. 1825, ch. 156.

142. The illegitimate child or children of any female, and the issue of any such illegitimate child or children shall be capable to take real or personal estate from their mother, or from each other, or from the descendants of each other, in like manner as if born in lawful wedlock.

This section referred to in deciding that illegitimate children were not entitled to workmen's compensation benefits—see notes to art. 101, sec. 80. *Scott v. Independent Ice Co.*, 135 Md. 348 (decided prior to act 1920, ch. 456).

Cited but not construed in *Richardson v. Smith*, 80 Md. 96.

See art. 46, secs. 6 and 7, and art. 93, sec. 128, and notes.

An. Code, 1924, sec. 140. 1912, sec. 135. 1904, sec. 134. 1888, sec. 135. 1719, ch. 14. 1729, ch. 24, secs. 17-20. 1798, ch. 101, sub-ch. 11, sec. 15. 1802, ch. 101, sec. 11. 1876, ch. 295. 1939, ch. 376, sec. 140.

143. If there be no widow or relations of the intestate within the fifth degree, which shall be reckoned by counting down from the common ancestor to the more remote, the whole surplus shall belong to the State, and shall be paid to the board of county commissioners of the county wherein letters of administration shall be granted upon the estate of the deceased, for the use of the public schools of said county.

Where corporate stock stands in name of A., agent, and B. in trust, both non-residents, and there is no proof as to who A.'s principal and B.'s *cestui que trustent* are, it is impossible to say to school commissioners of what county or city of Baltimore the money belongs. This section relates to cases of intestacy only. It becomes operative only upon assumption that stock in question was the individual property of deceased. Neither state nor city held entitled to corporate stock; appeal dismissed. *Liquidation of George's Creek Co.*, 125 Md. 602.

The degree of kinship between collaterals under this section is ascertained by counting down from the common ancestor to the more remote; hence first cousins or nephews of the decedent are related to him in second degree. Where money has been paid state under this section which belongs to relatives, same is impressed with a trust in favor of such relatives which may be enforced by court of equity, though *cestui que trust* could also sue at law. See notes to sec. 144. *Dombrovski v. Baltimore*, 141 Md. 424. And see *Thomas v. Marriott*, 154 Md. 114.

The dying without relations "within the fifth degree" may be proved by circumstantial or presumptive evidence and by declarations of intestate. *Thomas v. Frederick County School*, 7 G. & J. 369; *State v. Greenwell*, 4 G. & J. 415.

The act of 1876, ch. 295, held not to affect rights vested by death of intestate prior to its passage. History of this section. Under this section state takes as trustee just as any other distributee. *Rock Hill College v. Jones*, 47 Md. 14; *Patapsco Institute v. Rock Hill College*, 51 Md. 476.

This section referred to in connection with sec. 243—see notes thereto. *Savings Bank of Baltimore v. Weeks*, 110 Md. 94.

For a case construing this section prior to act of 1876, ch. 295 (now inapplicable by reason of said act), see *Patapsco Institute v. Rock Hill College*, 51 Md. 475. And see *Thomas v. Frederick County School*, 7 G. & J. 383.

See notes to sec. 138.

An. Code, 1924, sec. 141. 1912, sec. 136. 1904, sec. 135. 1888, sec. 136. 1729, ch. 24, sec. 20. 1878, ch. 316. 1939, ch. 376, sec. 141.

144. If any legal representative shall appear after payment has been made under the preceding section, the board of county commissioners