

just and reasonable to be paid to such Orphan or Orphans; on Pain of being Trespassers, and paying treble Damages, and full Cost to such Orphan or Orphans, to be recovered by the Guardian during the Orphan's Minority, or by the Orphan when at full Age.

C H A P.  
XXIV.

VIII. And be it likewise Enacted and Declared, That Guardians ought to render an Account to their Wards, of the Surplus of the Profits of their real Estates, beyond what shall be necessarily expended in the Maintainance and Education of such Ward; and to secure the same, as this Act directs other Parts of Orphans Estates to be secured.

Guardians to account with their Wards for the Surplus Profit of real Estates.

IX. And be it further Enacted, That when, and as often as any County Court, shall, by the Presentment of any Grand Jury, or otherwise, be informed, of any Waste being done by any Guardian, upon any Orphan's Estate, to issue their Warrant to cause such Guardian to appear before them; and if, upon the said Guardian's Appearance before them, and being heard in his or her Defence, or Refusal to appear, being summoned, such Information shall appear to be true, the said Justices shall order the Sheriff, with all possible Speed, to summon a Jury upon the Place where the Waste shall be committed, to enquire upon their Oath, into the same, and of what Damage such Waste shall be to such Orphan; which being returned to the said Justices, they are hereby required to oblige the Guardian to give Security for double the Damages that shall be assessed by such Jury: And in case of Refusal to commit such Guardian to Prison, there to remain until he or she will comply with their Order therein.

Guardians convict of Waste, shall give Security for double Damages.

X. And whereas some Doubts have arisen concerning the Rights of Widows, to the Real and Personal Estates of their deceased Husbands: For avoiding all such Doubts; Be it Enacted, by the Authority aforesaid, by and with the Advice and Consent aforesaid, That in such Case, where the Testator bequeaths or devises a considerable Part of his Personal Estate to his Wife, and it appears not in any Part of his Will or Codicil, that he intended the said Devise as a Legacy only to his Wife; and that she might nevertheless, have a Third Part of his remaining Estate, it shall be at the Election of such Wife, Widow, or Relict, within Forty Days after the Probate of such Will, to make her Election before the Judge for Probate of Wills, or the respective Deputy-Commissaries in each respective County, Whether she will be content with such Devise, or will have her Thirds, and release the Devise; and if she make Choice to have what is so bequeathed or devised to her, then, by that Choice, she shall be for ever barred from claiming her third Part aforesaid; and if she renounce what is so bequeathed and devised, she shall then have her third Part aforesaid, and be barred of her Devise; but shall not claim or have both: But in case such Widow shall neglect to make such Election within the Time aforesaid, she shall then be concluded by what shall be bequeathed to her by her Husband, and shall not have or claim any more of his Personal Estate, than shall be so bequeathed. Provided always, That such Part of the personal Estate or Estates so bequeathed, shall be liable to pay the Debts of the Deceased, as other Part of the Estate is or ought to be.

In case of a considerable Devise of personal Estate to the Wife, she shall make Election, either of the Legacy, or the Thirds, in 40 Days,

or shall be concluded by the Devise, and lose her Thirds, which shall be liable to her Husband's Debts.

N. B. By this Clause an Alteration is made in 1715, ch. 39, §. 35.

XI. And if such Wife or Relict have any Part of her Husband's Lands, or Real Estate of Inheritance devised to her by her Husband, and that it do not appear by any Part of the Will, that he intended her such a Part of his Real Estate aforesaid, and her Dower out of the rest of his Real Estate besides, then it shall be lawful for such Widow, or Relict, to make her Election as aforesaid, within the Time aforesaid, whether she will accept of such Devise, or the Third Part of all her Husband's Real Estate, of which she is endowable; and if she accept of her Devise, she shall be for ever debarred of her Dower out of the rest of the Testator's Real Estate, and if she accept of her Dower,

In case of a considerable Devise of real Estate, she shall make her Election as aforesaid,

then