

court-house of the county or counties or city where the lands may lie, and in such other public places in the county or counties or city as they may direct, at least thirty days previous to their proceeding to execute the said commission.

While the interests of the heirs are protected from the consequences of a substantial departure from the procedure pointed out in this and the following sections, sec. 45 expressly provides against the proceedings being set aside for unsubstantial and formal irregularities. Return of commissioners held to show that the required notice was given. Commissioner held qualified. Duty of commissioners. Return upheld. Oath. Object and purpose of this section and secs. 12, 17 and 45. *Basford v. Cranford*, 125 Md. 19.

The commissioner's return should affirmatively show what notice was given and how it was given. *Stallings v. Stallings*, 22 Md. 46. *Cf. Cecil v. Dorsey*, 1 Md. Ch. 223. And see sec. 12.

Matters relative to this section necessary to be stated in the bill or petition filed under sec. 8. *Hughes' Case*, 1 Bl. 47.

See secs. 11, 12 and 22.

An. Code, sec. 35. 1904, sec. 35. 1888, sec. 35. 1820, ch. 191, sec. 15.

10A.¹ If any minor shall be interested who hath not a guardian then the court from which the commission issues shall appoint a guardian for the purpose.

An. Code, sec. 36. 1904, sec. 36. 1888, sec. 36. 1820, ch. 191, sec. 50.

11. In cases where a commission may issue from any court to make partition of an intestate's estate, and any of the parties interested reside out of this State, the commissioner, or a majority of them, before they proceed in execution of said commission, shall cause notice thereof to be given by advertisement set up at the door of the court-house of the county or counties or city where the lands may lie, and in such other public places in the county or counties or city, and also by publication in such newspaper or papers as they may direct, at least two months previous to their proceeding to execute such commission.

Matters relative to this section necessary to be stated in the bill or petition filed under sec. 8. *Hughes' Case*, 1 Bl. 47.

See sec. 22.

An. Code, sec. 37. 1904, sec. 37. 1888, sec. 37. 1820, ch. 191, sec. 51.

12. In all cases where, by this article, any notice or publication is required, a statement made in the proceedings that due notice, according to law, has been given, or to that effect, shall be *prima facie* evidence that notice was given according to law.

A return that shows that "reasonable" notice was given is not in conformity with this section, or sec. 10. *Cecil v. Dorsey*, 1 Md. Ch. 228.

See notes to sec. 10.

An. Code, sec. 38. 1904, sec. 38. 1888, sec. 38. 1820, ch. 191, sec. 8.

13. The said commissioners, or a majority of them, shall adjudge and determine whether the estate will admit of being divided without injury and loss to all the parties entitled, and ascertain the value of such estate in current money, taking into consideration any encumbrance thereon,

¹Through inadvertence the numbering of this section was overlooked; hence the number 10A.