

An. Code, sec. 53. 1904, sec. 52. 1888, sec. 53. 1798, ch. 101, sub-ch. 4, sec. 2.

54. No question respecting infamy, citizenship or competent age shall be determined by the orphans' court without summoning the person so named in the will and alleged to be infamous, alien or under age, provided, he be within the State, or without giving such notice by advertisement or otherwise, as the court shall direct (in case he be out of the State), and hearing in case the party shall attend agreeably to summons or notice.

An. Code, sec. 54. 1904, sec. 53. 1888, sec. 54. 1798, ch. 101, sub-ch. 4, sec. 3.

55. A transcript of the record of conviction shall be evidence in the orphans' court to prove the party infamous.

An. Code, sec. 55. 1904, sec. 54. 1888, sec. 55. 1798, ch. 101, sub-ch. 4, sec. 4.

56. When any person so named as an executor in a will shall be alleged to be an alien, or not a citizen of the United States, his citizenship shall not be established otherwise than by a certificate under the seal of the office or court where the party became naturalized, or by competent testimony that the said person is a natural born citizen of the State or of the United States, or that the person is or was the wife of a citizen of the United States and resides therein.

An. Code, sec. 56. 1904, sec. 55. 1888, sec. 56. 1798, ch. 101, sub-ch. 4, sec. 5.

57. Any inquisition of a jury on a writ issued from a court of equity finding the party an idiot, lunatic or *non compos mentis*, and confirmed by the court, shall be conclusive evidence of the unsound mind of the party; and if such inquisition shall not have been had at the time when administration ought to be granted, a writ *de lunatico inquirendo* may issue by the circuit court or orphans' court, on the petition to either of said courts of any person interested; and the finding of the jury that the party is an idiot, lunatic or madman, or *non compos mentis*, thereon returned and confirmed by the court, shall be conclusive against the party, and a certificate from the clerk of the court, under seal, stating the substance of the proceedings, shall be evidence in the orphans' court, who may thereon proceed as if the party had not been named in the will.

This section prescribes mode for determining unsoundness of mind *vel non* of applicant for letters. The orphans' court has no power to decide such a question. *Kearney v. Turner*, 28 Md. 425.

The mere allegation that an executor is of unsound mind is insufficient to disqualify him; he must have been judicially declared insane. *Wheeler v. Stiffer*, 82 Md. 649.

This section referred to and its application pointed out in construing secs. 30 and 34—see notes thereto. *McCaughy v. Byrne*, 115 Md. 89.

See notes to sec. 44.

An. Code, sec. 57. 1904, sec. 56. 1888, sec. 57. 1798, ch. 101, sub-ch. 4, sec. 6.

58. When a person named in a will as executor shall be alleged to be under the age of eighteen years, it shall be incumbent on the person making the allegation to establish the same by such proof as is usually required in such cases.