

and the said courts, respectively, shall have full power to decree or direct what part of the personal estate shall be retained or appropriated for the purpose, and in what manner it shall be disposed of, and the legacy or benefit intended by the will shall be secured to the person to be entitled at a future period or contingency, and how the necessary part of the personal estate to be appropriated for the purpose shall be prevented from lying dead or being unproductive, and how it shall be applied, agreeably to the intent of the will or the construction of law, in case the contingency shall not take place.

Will may extend duties of distribution by executors, in that unaltered capacity, to a distant date. *Zimmerman v. Coblentz*, 170 Md. 473.

Cited in *Goldsborough v. DeWitt*, 171 Md. 266.

Where will shows that testator does not intend that widow shall have possession of corpus of his estate but only that the *net proceeds of income* be paid to her for support of herself and son, this section is applicable, and a release, for corpus of estate executed by widow subsequent to statement of an administration account cannot defeat claim of son for what was due him upon death of mother. *Lawson v. Burgee*, 131 Md. 440.

Where executors fail to apply to orphans' court or a court of equity as they ought to do under this section, either court may assume jurisdiction upon application of interested party. When equity assumes jurisdiction executor may be required to give bond although no bond was required by will; directions of will, however, should be followed as far as that can safely be done. Where will directs property to be held and invested by executors, court is not ordinarily authorized to direct them to hold as trustees. *Smith v. Michael*, 113 Md. 20.

This section contemplates an application by executor to orphans' court. Failure of proof that court gave directions under this section. The court has no power by virtue of this section to relieve executor of duties imposed by will. *Hindman v. State*, 61 Md. 29. *Cf. Gunther v. State*, 31 Md. 29.

Design of this section. Mode of disposition for security is left to sound discretion of court. Proper practice. *Gunther v. State*, 31 Md. 30.

For a full discussion of when this section applies and when it does not apply, reviewing the Maryland cases, see *Smith v. Michael*, 113 Md. 14.

This section held to defeat an application to compel the statement of a final account. *Rieman v. Peters*, 2 Md. 110.

As to duties of an executor somewhat analogous to those prescribed in this section, see *State v. Robinson*, 57 Md. 495; *Evans v. Iglehart*, 6 G. & J. 196; *Wootten v. Burch*, 2 Md. Ch. 190.

Cited but not construed in *Goldsborough v. Martin*, 41 Md. 505.

As to investments by guardians and administrators, see sec. 176, *et seq.*, and sec. 251.

An. Code, 1924, sec. 11. 1912, sec. 11. 1904, sec. 11. 1888, sec. 11. 1816, ch. 203, sec. 3.

13. The administrator of a deceased administrator, who shall die before an account of his administration hath been rendered, shall render an account, showing the amount of the assets received and the payments made by his decedent; and the account shall, if found by the court to be correct, be admitted to record as other administration accounts.

The cases provided for by this section and secs. 76 and 77 are far from parallel to case of rights of surviving executor against his co-executor. There is support, however, for a contention that terms "executor" and "administrator" are used interchangeably and that duties of executor or of a deceased co-executor are same as those of administrator of deceased administrator. *Crothers v. Crothers*, 121 Md. 118.

The obligation of a surviving executor to complete administration which has been begun does not come under this section. What commissions are allowed, and what disallowed. *Crothers v. Crothers*, 123 Md. 606.

Purpose of this section. What an executor passing an account under this section may do. The account should be passed on by court. *Baker v. Bowie*, 74 Md. 471; *Crothers v. Crothers*, 121 Md. 118.

Where a petition against executor of a deceased executor alleges that latter failed to account for certain money belonging to his decedent, his executor is bound to account under this section, and orphans' court has power to compel him so to do under sec. 245. *Muncaster v. Muncaster*, 23 Md. 288; *Hignutt v. Cranor*, 62 Md. 220; *Fulford v. Fulford*, 153 Md. 89.

The administrator of deceased administrator is required to account because there is a privity, and a mediate representation of, and indebtedness to, the first deceased. *Hammond v. Hammond*, 2 Bl. 349.