

The orphans' court has express authority under this section to revoke letters if proof warrants their so doing; proof held sufficient. *Carey v. Reed*, 82 Md. 393. And see *Jones v. Harbaugh*, 93 Md. 282.

Cited but not construed in *State v. Nicols*, 10 G. & J. 47; *All v. McComas*, 162 Md. 691; *Goldsborough v. DeWitt*, 171 Md. 231.

As to the qualifications of an executor, see sec. 18.

As to fiduciaries, see art. 37A.

See notes to secs. 40 and 52.

An. Code, 1924, sec. 43. 1912, sec. 42. 1904, sec. 41. 1888, sec. 42. 1798, ch. 101, sub-ch. 3, sec. 2.

45. If the executor, or all the executors named in a will who have not renounced, shall in due time procure an attested copy of the said will, and of the authentication or probate, under the seal of the office where it was authenticated or proved, and shall produce the same to the orphans' court, or in its recess to the register of wills, in any county wherein is personal estate of the testator to be administered, the said will and the authentication or probate thereof shall be recorded, and letters testamentary may be granted to the said executor, or all the executors not renouncing, by the said court, or in its recess by the register, at any time within forty days from the date of the said copy, on his or their executing a bond or bonds as aforesaid; and in case of sickness of, or accident to, or reasonable excuse made in behalf of any such executor, the said court or register may allow a further time, not exceeding thirty days, for filing such bond and taking such letters; but in no case shall letters testamentary be granted in such county after the expiration of such time allowed, or in any other county, except that wherein the will was authenticated or proved; and it shall be the duty of such executor to transmit to the court where the will was authenticated or proved, a certificate under seal of the register of wills of the county wherein letters testamentary shall have been granted, to show that such letters have been granted.

This section referred to in deciding that court would apply same rules in matter of time within which an application is made to revoke letters as in an application for letters. *Edwards v. Bruce*, 8 Md. 397. *Cf. Stocksedale v. Conaway*, 14 Md. 107.

An. Code, 1924, sec. 44. 1912, sec. 43. 1904, sec. 42. 1888, sec. 43. 1798, ch. 101, sub-ch. 3, sec. 3.

46. If there be only one executor, and he shall have been present at the authentication or probate of the will, and shall not within thirty days thereafter file a bond as aforesaid, or procure an attested copy under seal as aforesaid, for the purpose of taking out letters in another county, letters of administration with the copy of the will annexed may be granted by the orphans' court of the county wherein was the probate or authentication, to such person as they might be granted to in case of intestacy; and if the said executor so procuring an authenticated copy shall not obtain letters in some other county within seventy days from the date of the copy, letters of administration may be granted as aforesaid by the orphans' court of the county where the will was authenticated or proved; and it shall not be incumbent on the party applying for or taking such letters of administration to show that letters testamentary have not been obtained in some other county upon the copy aforesaid; but such letters of administration shall not be granted if it shall be proved to the court, by affidavit or certificate under the seal of office, or if they shall have reason to believe that such letters testamentary have been granted in a county proper for granting them.

Letters held to have been improperly revoked under this section and secs. 47, 48 and 49, inasmuch as a motion to revoke letters must be filed within same time after