

Under this section orphans' court has power to decide as a preliminary question whether a caveator is debarred by agreement or compromise, from caveating a will; issues; powers of court under this section. *Housman v. Measley*, 139 Md. 602.

Action of orphans' court in appointing administrator to defend a will upheld under the clause of this section providing that that court shall "administer justice in all matters relating to the affairs of deceased persons." *Friedenwald v. Burke*, 122 Md. 162.

The power of orphans' court to pass accounts prior to their payment is derived from this section. *Stevenson v. Schriver*, 9 G. & J. 336.

Scope and purpose of clause of this section giving orphans' court power "to administer justice in all matters relating to deceased persons." *Macgill v. Hyatt*, 80 Md. 256.

This section gives no jurisdiction to orphans' court where a caveat is filed before probate, to allow caveator counsel fees although caveat is successful. *Koenig v. Ward*, 104 Md. 565. And see *Harrison v. Clark*, 95 Md. 313; *Miller v. Gehr*, 91 Md. 714; *Dalrymple v. Gamble*, 68 Md. 165; *Townshend v. Brooke*, 9 Gill, 91; *Tilghman v. France*, 99 Md. 616. Cf. *Ex parte Young*, 8 Gill, 285.

#### Persons absent and unheard of for above seven years.

Presumption is that life continued during seven-year period; no justification for finding that death occurred on day insured last seen. This section declaratory of common law. No presumption as to date of death. See notes to sec. 17. *English v. United States*, 25 F. (2nd), (Dist. Ct. Md.), 335.

The portion of this section dealing with persons absent and unheard of for above seven years is constitutional, and need not remain dormant for seven years before becoming operative. Applications for letters may be oral as well as written. Application held sufficient, and applicant proper. *Savings Bank of Baltimore v. Weeks*, 110 Md. 86.

Unless requirements of portion of this section dealing with persons absent and unheard of for above seven years are complied with, orphans' court has no power to grant letters. Who may ask for a revocation of such letters? *Lee v. Allen*, 100 Md. 9 (decided prior to act of 1908, ch. 125).

The act of 1896, ch. 246, held void as in conflict with Maryland Declaration of Rights and Federal Constitution. *Savings Bank of Baltimore v. Weeks*, 103 Md. 602.

As to conveyances by the husband or wife of a person unheard of for seven years, see art. 45, sec. 13.

#### Generally.

Under this and following section, appellee is not responsible, at the instance of one of appellants, for an amount improperly paid a real estate company as commission for collecting rents, where such appellant received three-fifths of commissions so paid. While orphans' court is a court of limited jurisdiction, it is not without all power to do justice. *Parker v. Leighton*, 131 Md. 423.

There is a presumption in favor of correctness of findings of orphans' court on questions of fact as to impartiality and disinterestedness of appraisers. *Wingert v. Albert*, 127 Md. 85. And see *Wingert v. State*, 129 Md. 31.

In view of the powers given orphans' court in first portion of this section, a court of equity held to be not warranted in interfering, either to protect estate or appoint receiver. See notes to sec 72. *In re Curtis' Estate v. Piersol*, 117 Md. 172.

What is meant by the probate of a will, and what is necessary thereto? *Tilghman v. France*, 99 Md. 615.

This section referred to in discussing equity jurisdiction over estates. *Boland v. Ash*, 145 Md. 476.

This section construed in connection with sec. 37—see notes thereto. *Dalrymple v. Gamble*, 66 Md. 313.

This section referred to in construing sec. 253—see notes thereto. *Linthicum v. Polk*, 93 Md. 94.

This section referred to in construing sec. 151—see notes thereto. *Alexander v. Leakin*, 72 Md. 202.

Cited but not construed in *Campbell v. Porter*, 162 U. S. 483; *Nicholls v. Hodges*, 1 Pet. 562; *Goldsborough v. Dewitt*, 171 Md. 266; *Harlan v. Hunter*, 170 Md. 517; *Blum v. Fox*, 173 Md. 533.

See notes to secs. 245 and 360.

An. Code, 1924. sec. 244. 1912, sec. 235A. 1914, ch. 256.

**244.** From and after April 1, 1914, no letters testamentary or of administration shall be issued to any person on the estate of any deceased person except upon application, first made in writing, plainly and distinctly setting forth the name, age and last known place of residence of said deceased person, the date of and place of death, whether said decedent died leaving a husband, or wife, or child or children, or other heirs at law surviving; together with the names, ages and place of residence of said