

CHAP.  
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8. The rules and regulations herein contained, relative to last wills and codicils, shall be construed to extend to all cases where the testator or testatrix shall die after the time when the operation of this act shall commence, without regard to the time of making the will or codicil.

9. Forasmuch as it is the intent of the law now in force, as well as of this act, that executors and administrators should suffer no loss from the decrease of the estate, and make no gain from the increase, and that, when necessary for paying debts, a sale shall take place, and the said executor or administrator be accountable for the amount of the sales, in every case where letters testamentary or of administration have already been granted, and the administration hath not been completed, or a final account passed, the rules herein before laid down, relative to the duties and powers of executors and administrators, and the remedies against them, shall govern and prevail with respect to such part of the administration as shall remain incomplete at the time when the operation of this act is to commence; provided nevertheless, that this act shall not be construed to deprive any executor or administrator of any right which accrued to him by entering on his trust, or to exempt any executor or administrator from any remedy or proceeding against him, which any person is or shall be entitled to on account of his not having observed the directions of the law now in force.

10. All rules herein contained, relative to an executor or administrator, shall apply and extend to an executrix or administratrix, or executors or administrators respectively, unless otherwise expressly provided for; and whenever any party in the singular number, or a male party, is mentioned, the rule shall apply to a female, or to two or more having a joint interest, or jointly concerned, applying or called upon, so far as the rule can with propriety apply, or so far as is not otherwise directed.

11. If any security of an executor or administrator shall conceive him or herself in danger of suffering from the suretyship, he may apply to the orphans court which granted the administration, and the said court may call upon the party to give counter security, to be approved by the court; and if the party so called on shall not, within a fixed reasonable time, give such counter security, the court may order the property remaining in the hands of such executor or administrator to be delivered up to such security, and the court may enforce the delivery, by process, as hereafter directed; and an inventory of the property delivered to such security shall be returned without delay, and the property contained in such inventory shall be by the said security sold, distributed and delivered up, as the case may require, under the immediate order of the court, as if such security were executor or administrator; but inasmuch as it would be inconvenient to creditors, and others, interested in the estate, if there should be a double administration, the executor or administrator shall go on to discharge his trust, unless the court revoke his letters for some just cause, as herein before directed, and he shall be answerable for the property in the same manner as if it were not on his default as aforesaid delivered to the security, and he shall be entitled to sue the said security, in a special action on the case, grounded on this act, and recover damages, with double costs, in case he shall suffer from the misconduct of such security, in diminishing any part of the property, without obtaining an allowance for the same from the court; and the said security shall bring into court, to be deposited with the register of wills, the money arising from the sale of any property as aforesaid, to be applied according to the meaning of this act.

12. Any executor or administrator shall be entitled to appoint a meeting of creditors, or of persons entitled to distributive shares or legacies, or a residue, on some day by the court approved, and passage of claims, payment or distribution, may be there made, under the courts direction and control.

CHAP. 15.

Orphans court  
and register of  
wills.

1. THE governor, by and with the advice and consent of the council, shall have authority to appoint and commission three men of integrity and judgment in each county of the state, to be justices of the orphans court in such county, for the purpose of taking the probat of wills, granting letters testamentary and of administration, directing the conduct and settling the accounts of executors and administrators, securing the rights of legatees, superintending the distribution of the estates of intestates, securing the rights of orphans and legatees, and administering justice in all matters relative to the affairs of deceased persons, according to law.

2. The form of the commission shall be as follows: "The State of Maryland, to A. B. C. D. and E. F. of — county, gentlemen, Greeting. Be it known, that reposing great trust and confidence in your judgment, integrity and love of justice, we hereby appoint you justices, and each of you a justice, of the orphans court for — county, to do equal right and justice, according to the law of this state, in every case in which you shall act under this commission, freely without sale, fully without denial, and speedily without delay; and you, or any two of you, are appointed and authorized to execute the powers of the said orphans court, honestly and faithfully, according to law, until you shall be duly discharged from your said office. Given under the seal of the state of Maryland, this — day of —. Witness —, chancellor."

3. Each of the persons named in such commission shall be entitled to hold and exercise his office until a new commission as aforesaid, in which his name shall not be included, shall be produced, and opened in court of which he is a justice.

4. Every such commission, if the persons therein named, or any of them, shall qualify under it, shall be recorded in the offices of the registers of wills, amongst the proceedings of the orphans courts whereof they are appointed justices.

5. The justices of the orphans court in each county, already commissioned and qualified, shall be and are hereby authorized, until a new commission shall be produced and opened as aforesaid, to hold their offices, and exercise the powers vested in orphans courts by this act, or by any law which shall be in force after the operation of this act shall commence.

6. Any person who shall qualify under such commission may also act under a commission as justice of the peace.

7. But no person named in such commission to the orphans court shall be authorized to act as justice of the orphans court, until he shall have repeated and subscribed a declaration of his belief in the christian religion, and taken, repeated and subscribed, the oath of allegiance prescribed