

as the age of majority for the purposes of this clause; or his bond may be sued by the executor or administrator.

CHAP. CL.

1. IF any person, named as an executor or executrix in a will, shall be, at the time when administration ought to be granted, under the age of eighteen years, or of unsound mind, incapable according to law of making a contract, or convict of any crime, rendering him or her infamous, according to law; or if any person, named as an executor, shall not be a citizen of the United States, letters testamentary, or of administration, (as the case may require,) may be granted, in the same manner as if such person had not been named in the will.

CHAP. 4.

To whom letters testamentary may be granted.

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

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

4. 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 this state, or of some of the United States.

5. Any inquisition of a jury, on a writ issued from chancery, finding the party an idiot, lunatic, or non compos mentis, and confirmed by the chancellor, shall be conclusive evidence of the unsound mind of the party; and if such an inquisition shall not have been had, at the time when administration ought to be granted, a writ de lunatico inquirendo may issue by the chancery or orphans court, on the petition to either of the 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 chancellor or the orphans court, as the case may be, shall be conclusive against the party; and a certificate from the register in chancery, 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.

6. When a person named in a will as an executor or executrix 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.

7. And in case letters testamentary shall be granted to an executor above eighteen, and under twenty-one years of age, the bond by him executed for faithful performance shall be binding as if he were of full age.

8. No married woman shall be entitled to letters testamentary, but the same, or letters of administration, shall be granted, in the same manner as if she had not been named in the will, unless her husband shall, with two sureties, give bond as aforesaid, to be recorded and sued as aforesaid, for her faithful performance; and the bond of any executrix, who is unmarried, and above eighteen, given as aforesaid, shall be binding in the same manner as if she were of the full age of twenty-one years.

1. NO letters of administration shall be granted to a person infamous as aforesaid, or to an idiot, lunatic, or person non compos mentis, or to a person who is not a citizen of the United States, or under eighteen years of age; and any question respecting infamy, soundness of mind, citizenship or age, may be heard and established as if the same respected a person named as an executor.

CHAP. 5.

To whom, and under what circumstances, letters of administration may be granted.

2. Whenever any person hath died intestate, leaving in this state goods, chattels, or personal estate, letters of administration may be granted by the orphans court of the county wherein was the party's mansion-house or residence; or in case he or she had no mansion or residence within the state, letters shall be granted in the county where the party died; and in case the party neither had mansion or residence, nor died within the state, letters may be granted in the county wherein lies, or is supposed to lie, a considerable part of the party's personal estate.

3. It shall be incumbent on any person applying for such letters, to prove such dying intestate to the satisfaction of the court, unless the same be notorious; and the court may examine such person, on oath or affirmation, touching the time, place, and manner of the death, and whether or not the party dying left any will; and if such dying intestate be not proved to the satisfaction of the court, no letters of administration shall be granted; no such letters shall be granted until at least twenty days after the death of the supposed intestate, and at least seven days after application for the same.

4. If such letters shall be granted, and a will for the disposing of the personal estate of the deceased shall afterwards be proved according to law, and an executor or executrix, or executors, named therein, shall apply for letters testamentary within thirty days thereafter, and shall be capable

ble