

No. 293

AN ACT

SB 775

Amending Title 20 (Probate, Estates and Fiduciaries Code) of the Consolidated Pennsylvania Statutes making certain editorial corrections and restoring unintended omissions of prior law; incorporating into the code certain provisions of present law; changing provisions relating to an election against the will; authorizing the court in certain cases to enter nonsuits, order the execution of a deed by a co-fiduciary, hold private incompetency hearings in the absence of objection by the incompetent, appoint a physician to examine an alleged incompetent, release fiduciaries from certain trust restrictions, release trustees from impractical investment restrictions, permit sales of real property and establishing procedures for such sales, and establish certain sequestered deposit accounts; changing the time for filing accounts; changing provisions relating to real estate brokers' commissions; incorporating provisions relating to inadequacy of consideration or better offer for contracts entered into by guardians and trustees; imposing certain duties on the register of wills including the docketing of certificates and affidavits of death; abolishing nuncupative wills; increasing to ten thousand dollars the maximum amounts of decedents', minors' or incompetents' estates in which a formal account or guardian is unnecessary; authorizing nominee registration of property held by corporate custodians for minors; and repealing provisions of the code and other statutes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title heading, the introductory paragraph and paragraph (10) of section 711, section 712, as much as relates to section 721 of the subchapter analysis of Subchapter C of Chapter 7 and section 721 of Title 20, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added June 30, 1972 (P.L.508, No.164), are amended to read:

Title 20

**[PROBATE,] DECEDENTS, ESTATES AND FIDUCIARIES
[CODE]**

§ 711. Mandatory exercise of jurisdiction through orphans' court division in general.

Except as provided in section *712 of this code (relating to nonmandatory exercise of jurisdiction through orphans' court division) and section 713* of this code (relating to special provisions for Philadelphia County), the jurisdiction of the court of common pleas over the following shall be exercised through its orphans' court division:

* * *

(10) Incompetents' estates. The administration and distribution of the real and personal property of the estates of incompetents, except where jurisdiction thereof was acquired by the court of

common pleas prior to January 1, 1969 unless the president judge of such court orders the jurisdiction of the **[trust] estate** to be exercised through the orphans' court division.

* * *

§ 712. Nonmandatory exercise of jurisdiction through orphans' court division.

[Except as provided in section 713 of this code (relating to special provisions for Philadelphia County) the] *The* jurisdiction of the court of common pleas over the following may be exercised through the orphans' court division:

(1) Title to real estate. The determination of the persons to whom the title to real estate of a decedent or of the creator of an estate or trust has passed by devise or descent or by the terms of the trust instrument where jurisdiction of such estate or trust is exercised through the orphans' court division: Provided, That nothing herein shall be construed to restrict the provisions of section 711 of this code (relating to mandatory exercise of jurisdiction through orphans' court division in general) relating to distribution of real estate in an estate or trust.

(2) Guardian of person. The appointment, control and removal of the guardian of the person of any incompetent.

SUBCHAPTER C VENUE

Sec.

* * *

721. Venue of decedents', **[and]** minors' *and incompetents'* estates.

* * *

§ 721. Venue of decedents', **[and]** minors' *and incompetents'* estates.

When a Pennsylvania court has jurisdiction of a decedent's, **[or]** a minor's, *or an incompetent's* estate, except as otherwise provided by law, the venue for all purposes shall be as follows:

(1) Decedents' estates. In the case of a decedent's estate, in the county where the letters are granted to the personal representative, and in the absence of such letters, then where the decedent had his last family or principal residence, and if the decedent had no domicile in the Commonwealth, then in any county where any of his property is located.

(2) Minors' *and incompetents'* estates. In the case of a guardian of a minor *or incompetent* appointed by the court, in the county whose court appointed the guardian. In the case of a guardian of a minor *or incompetent* not appointed by the court, or when there is a minor's *or incompetent's* estate but no guardian, in the county whose court **[which]** at the time proceedings are first initiated would have jurisdiction to appoint a guardian of the estate.

Section 2. The subchapter analysis of Subchapter G of Chapter 7 of the title is amended by adding an item and a section is added to read:

SUBCHAPTER G
PROCEDURE

Sec.

779. *Nonsuits.*

§ 779. *Nonsuits.*

(a) In general.—The orphans' court division may enter a nonsuit under the same circumstances, subject to review in the same manner and with the same effect as in an action at law.

(b) Will contest.—A nonsuit may be entered against a contestant in a will contest whenever the contestant has the burden of overcoming the presumption of validity arising from due proof of execution as required by law and the contestant has failed to satisfy that burden.

(c) Other cases.—In any other case a nonsuit may be entered against a party where the disposition of the case depends on an issue on which that party has the burden of proof and has failed to satisfy that burden.

Section 3. Subsection (d) of section 908, as much as relates to section 922 of the subchapter analysis of Subchapter B of Chapter 9 and section 922 of the title are amended to read:

§ 908. Appeals.

(d) Excepted appeals.—This section shall not apply to appeals for inheritance tax purposes, **[nor] or** to appeals **[specifically] specially** regulated by law.

SUBCHAPTER B
RECORDS AND CERTIFIED COPIES

Sec.

922. Inventories **[and appraisements]**.

§ 922. Inventories **[and appraisements]**.

The register shall index and record all inventories **[and appraisements]** filed with him. The recording may be accomplished by photographic or other mechanical process.

Section 4. The subchapter analysis of Subchapter B of Chapter 9 of the title is amended by adding an item and a section is added to read:

SUBCHAPTER B
RECORDS AND CERTIFIED COPIES

Sec.

* * *

925. Certificates and affidavits of death.

§ 925. Certificates and affidavits of death.

Where it is not necessary to have letters granted to administer a decedent's estate but it is desired to have a public record of his death, a certificate of death may be filed with the register except that where a certificate of death cannot be obtained the affidavit of a relative or other interested party may be filed with the register setting forth the decedent's name, residence, date, time and place of death, and age at death. The register shall index and record all such certificates and affidavits filed with him.

Section 5. Subsection (c) of section 2106 of the title is amended to read:

§ 2106. Forfeiture.

* * *

(c) **Slayer's share.**—Any person who participates either as a principal or as an accessory before the fact in the wilful and unlawful killing of any person shall not in any way acquire property or receive any benefits as the result of such killing, but such property or benefits shall be distributed as provided [by law] *in Chapter 88 of this code (relating to slayers).*

* * *

Section 6. An item is added to the chapter analysis of Chapter 25, subsection (b) of section 2501, the introductory paragraph of section 2502 and sections 2503, 2504, 2510 and 2511 of the title are amended and a section is added to read:

Sec.

* * *

2504.1. Validity of execution.

* * *

§ 2501. Who may make a will.

* * *

(b) **[Persons in military service and mariners.**—Any person of sound mind 18 years of age or older and being in the Armed Forces of the United States in active service at home or abroad, or being a mariner on land or at sea, may by will dispose of all his real and personal estate subject to payment of debts and charges. He may thereafter revoke such will whether or not he is still in such service or is a mariner.] *Repealed.*

§ 2502. Form and execution of a will.

Every will [, except nuncupative wills but including wills of mariners and persons in the Armed Forces of the United States,] shall be in

writing and shall be signed by the testator at the end thereof, subject to the following rules and exceptions:

* * *

§ 2503. Nuncupative wills.

[(a) When permissible.—A nuncupative will may be made only by a person in imminent peril of death, whether from illness or otherwise, shall be valid only if the testator died as a result of the peril, and must be declared to be his will by the testator before two disinterested witnesses, reduced to writing by or under the direction of both of the witnesses within ten days after such declaration, and submitted for probate within three months of the death of the testator.

(b) Property disposable.—A nuncupative will attempting to dispose of personal property of an aggregate value in excess of \$500, or of real estate in any amount, shall be wholly void.

(c) Effect on prior will.—A nuncupative will shall neither revoke nor change an existing will.] *Repealed.*

§ 2504. Witnesses.

[(a) General rule.—Except as provided in subsection (b) hereof, no will shall be valid unless proved by the oaths or affirmations of two competent witnesses.

(b) Foreign execution.—A written will of a testator domiciled outside of Pennsylvania but within the United States, executed and proved in accordance with the law of his domicile, shall be effective as to property within Pennsylvania.] *Repealed.*

§ 2504.1. *Validity of execution.*

A will is validly executed if executed in compliance with section 2502 (relating to form and execution of a will), or in compliance with the law of the jurisdiction where the testator was domiciled at the time of the execution of the will or at the time of his death.

§ 2510. How election made.

The surviving spouse electing to take under or against the will shall manifest the election in writing signed by him and acknowledged before an officer authorized by law to take acknowledgments of deeds. The election or a copy thereof shall be mailed or delivered to the personal representative of the testator or his attorney. The election shall be filed in the office of the clerk of the orphans' court division of the district where the will was probated, and a record shall be made of such filing by the clerk. When the estate includes real estate the election or a duplicate original or a certified copy thereof shall be recorded in the office **[of the recorder] for the recording** of deeds of each county in which any of the real estate of the testator lies, and shall be indexed by the recorder in the grantors' index under the name of the ***testator, and in the grantees' index under the name of the*** surviving spouse. The costs of filing and recording the election shall be paid out of the estate as a part of the administration expenses.

§ 2511. Time for making election.

As between the surviving spouse and other legatees and devisees, the spouse's election shall be in time if within **[one year] six months** after the probate of will the surviving spouse shall:

- (i) mail or deliver the election or a copy thereof to the personal representative of the testator or his attorney; or
- (ii) file it in the office of the clerk of the orphans' court division and mail or deliver a copy to the personal representative or his attorney; or
- (iii) record such election or a duplicate original or certified copy thereof in the office of the recorder of deeds of any county in which real estate of the testator lies and mail or deliver a copy to the personal representative or his attorney.

The orphans' court division, on application of the surviving spouse made within **[one year] six months** after the probate of the will, may extend the time for making the election for such period and upon such terms and conditions as the court shall deem proper under the circumstances. A certified copy of the decree of the court extending the time for making the election may be recorded and indexed in the office of the recorder of deeds in any county in which any of the real estate of the testator lies in the manner provided in section 2510 of this code (relating to how election made).

Section 7. Section 3102, subsection (b) of section 3122, paragraph (3) of section 3132, subsection (a) of section 3133, sections 3134, 3137 and paragraph (3) of section 3153 and sections 3351, 3353, 3356, subsection (b) of section 3360, the subchapter analysis of Subchapter A of Chapter 35, section 3501, the subchapter analysis of Subchapter D of Chapter 35, section 3531, subsection (a) of section 3545, and the introductory paragraph to section 5101 of the title are amended and a section is added to read:

§ 3102. Settlement of small estates on petition.

When any person dies domiciled in the Commonwealth owning property (exclusive of real estate and of **[wages, salary or any accrued vacation benefits or pension] property** payable under section 3101 of this code (relating to **[payment of wages, salary, vacation benefits] payments** to family), but including personal property claimed as the family exemption) of a gross value not exceeding **[\$5,000] \$10,000**, the orphans' court division of the county wherein the decedent was domiciled at the time of his death, upon petition of any party in interest, in its discretion, with or without appraisement, and with such notice as the court shall direct, and whether or not letters have been issued or a will probated, may direct distribution of the property (including **[wages, salary or any accrued vacation benefits or pensions] property** not paid under section 3101 of this code) to the parties entitled thereto. *The*

authority of the court to award distribution of personal property under this section shall not be restricted because of the decedent's ownership of real estate, regardless of its value. The decree of distribution so made shall constitute sufficient authority to all transfer agents, registrars and others dealing with the property of the estate to recognize the persons named therein as entitled to receive the property to be distributed without administration, and shall in all respects have the same effect as a decree of distribution after an accounting by a personal representative. Within one year after such a decree of distribution has been made, any party in interest may file a petition to revoke ***it because an improper distribution has been ordered. If the court shall find that an improper distribution has been ordered, it shall revoke the decree and shall direct restitution as equity and justice shall require.***

§ 3122. Payment or delivery of exemption.

* * *

(b) Property set aside for minors ***or incompetents.***—When any spouse, child or parent entitled to all or part of the exemption is a minor ***or incompetent,*** the guardian of his estate, and if no such guardian has been appointed then the personal representative, without request made to him by anyone, shall select, for the use and benefit of the minor ***or incompetent,*** real or personal property to the full value to which he is entitled, and in so doing the guardian or personal representative shall be governed by the necessities of the minor ***[under] or incompetent in the circumstances of each case.***

* * *

§ 3132. Manner of probate.

All wills shall be proved by the oaths or affirmations of two competent witnesses and

* * *

(3) ***[Nuncupative will. In the case of a nuncupative will, the witnesses shall have been present when the will was declared and shall have reduced it to writing or directed it to be reduced to writing.] Repealed.***

§ 3133. Limit of time for probate.

(a) Original probate.—A will ***[, other than a nuncupative will,]*** may be offered for probate at any time.

* * *

§ 3134. Nuncupative wills.

[A nuncupative will shall not be admitted to probate, nor shall letters thereon be issued, unless notice has first been given to those who would be entitled to the estate in case of intestacy.] Repealed.

§ 3137. Enforcing production of will.

The register, at the request of any party in interest, shall issue a citation ***directed*** to any person alleged to have possession or control of a will of a decedent requiring him to show cause why it should not be

deposited with him. In the absence of good cause shown, the register shall order the will to be deposited with him.

§ 3153. Contents of petition.

A petition for the grant of letters testamentary or of administration shall state, under oath, so far as they are known:

* * *

(3) If the decedent died testate, whether **[he has married or any child has been born to or adopted by him since the execution of the will.]** *the will was modified by the occurrence of any of the circumstances delineated in section 2507 of this code (relating to modification by circumstances).*

* * *

§ 3351. Power to sell.

Except as otherwise provided by the will, if any, the personal representative may sell, at public or private sale, any personal property whether specifically bequeathed or not, and any real property not specifically devised, and with the joinder of the specific devisee real property specifically devised. When the personal representative has been required to give a bond, no proceeds of real estate, ***including proceeds arising by reason of involuntary conversion***, shall be paid to him until the court has made an order excusing him from entering additional security or requiring additional security, and in the latter event, only after he has entered the additional security.

§ 3353. Order of court.

When the personal representative is not authorized to do so by this code **[or is not authorized]** or is denied the power to do so by the governing instrument, if any, or when it is advisable that a sale have the effect of a judicial sale, he may sell any real or personal property of the estate, including property specifically devised, at public or private sale, or may pledge, mortgage, lease, or exchange any such property, or grant an option for the sale, lease, or exchange of any such property, under order of the orphans' court division of the county where letters testamentary or of administration were granted, upon such terms and upon such security and after such notice as the court shall direct, whenever the court shall find such sale, pledge, mortgage, lease, exchange, or option to be desirable for the proper administration and distribution of the estate.

§ 3356. Purchase by personal representative.

In addition to any right conferred by a governing instrument, if any, the personal representative, in his individual capacity, may bid for, purchase, take a mortgage on, lease, or take by exchange, real or personal property belonging to the estate, subject, however, to the approval of the court, and under such terms and conditions and after such reasonable notice to parties in interest as it shall direct. **[When the purchaser, mortgagee, or lessee is the sole personal representative, the**

court may make an order directing its clerk to execute a deed or other appropriate instrument to him.] *The court may make an order directing a co-fiduciary, if any, or the court's clerk to execute a deed or other appropriate instrument to the purchasing personal representative.*

§ 3360. Contracts, inadequacy of consideration or better offer; brokers' commissions.

* * *

(b) Brokers' commissions.—When a personal representative shall enter into an agreement of sale of real estate in good faith, which is not binding under subsection (a) of this section and which is set aside upon receipt of a higher offer for such real estate, he shall not be relieved from the payment of real estate broker or broker's commissions to the broker who had procured such agreement of sale, and in the event that more than one real estate broker is entitled to commissions for said agreements of sale, then such commissions shall be equally divided between or among such real estate brokers: Provided further, That the total aggregate commission paid as a percentage of the gross consideration of the final sale shall in no event exceed [the prevailing rate of commission as recommended by the schedule of commissions of the board of realtors in the territory in which the property is located] *a fair commission for a single sale of the property involved.*

SUBCHAPTER A ACCOUNTS

Sec.

* * *

3501.1. Accounting by personal representative.

* * *

§ 3501. Accounting required.

[Except as otherwise provided in this code every personal representative shall file an account of his administration at the expiration of six months from the first complete advertisement of the original grant of letters or when directed to do so by the court, and may be cited to file an account at any time after the expiration of that period. Unless it is directed by the court, no account shall be filed within six months of the first complete advertisement of the original grant of letters.] *Repealed.*

§ 3501.1. Accounting by personal representative.

A personal representative may file his account at any time after four months from the first complete advertisement of the original grant of letters, but shall not file it earlier unless directed to do so by the court. A personal representative may be cited to file an account at any time after the expiration of six months from the first complete advertisement of the original grant of letters. A personal representative may be directed by the court to file an account of his administration at any time.

SUBCHAPTER D
DISTRIBUTION

Sec.

* * *

3531. Estates not exceeding **[\$5,000] \$10,000.**

* * *

§ 3531. Estates not exceeding **[\$5,000] \$10,000.**

When the gross real and personal estate of a decedent does not exceed the value of **[\$5,000] \$10,000**, the personal representative, after the expiration of one year from the date of the first complete advertisement of the grant of letters, may present his petition to the court with an annexed account showing the administration of the estate, the distribution theretofore made and suggesting the proper distribution of the estate not theretofore distributed. Thereupon, the court, upon satisfactory proof of notice to all known parties in interest, may approve the distribution theretofore made and order distribution of the assets not theretofore distributed and discharge the personal representative and his sureties from future liability without the expense of proceedings as in a formal account. The court may discharge only the surety from future liability, and may allow the personal representative to continue without surety upon condition that no further assets shall come into the possession of the personal representative until he files another bond, with sufficient surety, as required by the register.

§ 3545. Transcripts of balances due by personal representative.

(a) Filing in common pleas.—The prothonotary of any court of common pleas shall, on demand of any party in interest, file and docket a certified transcript or extract from the record showing that an orphans' court division has adjudged an amount to be due by a personal representative, and such transcript or extract shall constitute a judgment against the personal representative from the time of its filing with the same effect as if it had been obtained in an action in the *trial or civil division of the* court of common pleas. If the amount adjudged to be due by the personal representative shall be increased or decreased on appeal, the prothonotary shall, if the decree of the appellate court is certified to him, change his records accordingly, and if the appellate court has increased the amount, the excess shall constitute a judgment against the personal representative from the time when the records are so changed.

* * *

§ 5101. When guardian unnecessary.

When the entire real and personal estate, wherever located of a resident or nonresident minor has a net value of **[\$5,000] \$10,000** or less, all or any part of it may be received and held or disposed of by the minor, or by the parent or other person maintaining the minor, without the

appointment of a guardian or the entry of security, in any of the following circumstances:

* * *

Section 8. The subchapter analysis of Subchapter A of Chapter 51 of the title is amended by adding an item and a section is added to read:

SUBCHAPTER A
SMALL ESTATES

Sec.

* * *

5103. *Sequestered deposit.*

* * *

§ 5103. *Sequestered deposit.*

Without the appointment of a guardian, any amount in cash of a resident or nonresident minor may be ordered by the court to be deposited in one or more savings accounts in the name of the minor in banks, building and loan associations or savings and loan associations insured by a Federal governmental agency, provided that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are thus insured. Every such order shall contain a provision that no withdrawal can be made from any such account until the minor attains his majority, except as authorized by a prior order of the court.

Section 9. The introductory paragraph of section 5153, paragraph (1) of section 5153 and section 5154 of the title are amended and a paragraph is added to section 5153 to read:

§ 5153. Provisions identical to other estates.

The provisions concerning *guardians and* minors' estates shall be the same as those set forth in this code *for personal representatives and* for the administration of decedents' estates with regard to the following:

(1) [Order of court, as in section 3353 (relating to order of court).]

Repealed.

* * *

(6) Contracts, inadequacy of consideration or better offer; brokers' commissions, as in section 3360 (relating to contracts, inadequacy of consideration or better offer; brokers' commissions).

§ 5154. Title of purchaser.

If the guardian has given the bond, if any, required in accordance with this [act,] code, any sale, pledge, mortgage, or exchange by him, whether pursuant to a decree or to a power under this code, shall pass the full title of the minor therein, *free of any right of his spouse*, unless otherwise specified. Persons dealing with the guardian shall have no obligation to see to the proper application of the cash or other assets given in exchange for the property of the minor. Any sale or exchange by a guardian pursuant to a decree under section [5153(1)] 5155 of this code

(relating to order of court) shall have the effect of a judicial sale as to the discharge of liens, but the court may decree a sale or exchange freed and discharged from the lien of any mortgage otherwise preserved from discharge by existing law, if the holder of such mortgage shall consent by writing filed in the proceeding. No such sale, mortgage, exchange, or conveyance shall be prejudiced by the subsequent dismissal of the guardian, nor shall any such sale, mortgage, exchange, or conveyance by a testamentary guardian be prejudiced by the terms of any will or codicil thereafter probated, if the person dealing with the guardian did so in good faith.

Section 10. The subchapter analysis of Subchapter F of Chapter 51 of the title is amended by adding an item and a section is added to read:

SUBCHAPTER F
SALES, PLEDGES, MORTGAGES, LEASES, OPTIONS AND
EXCHANGES

Sec.

* * *

5155. Order of court.

§ 5155. Order of court.

Whenever the court finds it to be for the best interests of the minor, a guardian may, for any purpose of administration or distribution, and on the terms, with the security and after the notice directed by the court:

(1) sell at public or private sale, pledge, mortgage, lease or exchange any real or personal property of the minor;

(2) grant an option for the sale, lease or exchange of any such property;

(3) join with the spouse of the minor in the performance of any of the foregoing acts with respect to property held by the entireties; or

(4) release the right of the minor in the property of his spouse and join in the deed of the spouse in behalf of the minor.

Section 11. The introductory paragraph of subsection (a) of section 5303, paragraph (2) of subsection (a) of section 5303, subsection (g) of section 5305, the subchapter analysis of Subchapter B of Chapter 55, section 5505, the subchapter analysis of Subchapter C of Chapter 55, section 5511, the introductory paragraph of section 5515, the introductory paragraph of section 5521 and paragraph (23) of section 5521 of the title are amended and a paragraph is added to section 5521 to read:

§ 5303. Manner of making gift.

(a) An adult person may, during his lifetime, make a gift of a security, money, a life or endowment *insurance* policy or an annuity contract to a person who is a minor on the date of the gift:

* * *

(2) If the subject of the gift is a security not in the registered form, by delivering it to a guardian of the minor or a trust company, accompanied by a statement of gift in the following form in substance, signed by the donor and the person designated as custodian.

“Gift under the Pennsylvania Uniform Gifts to Minors Act

I hereby deliver to
(name of donor) (name of custodian)
as custodian for **under** the Pennsylvania
(name of minor)

Uniform Gifts to Minors Act, the following security(ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them).

.
(signature of donor)

. hereby acknowledges receipt of the above
(name of custodian)
described security (ies) as custodian for the above minor under the Pennsylvania Uniform Gifts to Minors Act.

Dated
(signature of custodian).”

* * *

§ 5305. Duties and powers of custodian.

* * *

(g) The custodian shall register each security which is custodial property, and in the registered form in the name of the custodian followed in substance by the words “as custodian for
(name of minor)
under the Pennsylvania Uniform Gifts to Minors Act,” *provided that a corporate custodian may register securities which are custodial property in the name of its nominee.*

*The custodian shall hold all money which is custodial property in an account with a broker or in a bank in the name of the custodian, followed in substance by the words “as custodian for
(name of minor)*

under the Pennsylvania Uniform Gifts to Minors Act.” The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

* * *

SUBCHAPTER B
SMALL ESTATES

Sec.

5505. Provisions similar to small estates of minors’ [estates].

§ 5505. Provisions similar to small estates of minors' [estates].

The provisions concerning small estates of incompetents shall be the same as are set forth in this code relating to minors' estates, with regard to the following:

(1) When guardian unnecessary, as in section 5101 (relating to when guardian unnecessary).

(2) Power of natural guardian, as in section 5102 (relating to power of natural guardian).

(3) *Sequestered deposit, as in section 5103 (relating to sequestered deposit).*

SUBCHAPTER C

APPOINTMENT OF GUARDIAN: BONDS: REMOVAL AND DISCHARGE

Sec.

5511. Petition and hearing; *examination by court-appointed physician.*

* * *

§ 5511. Petition and hearing; *examination by court-appointed physician.*

(a) Resident.—The court, upon petition and a hearing at which good cause is shown, may find a person domiciled in the Commonwealth to be incompetent and appoint a guardian or guardians of his person or estate. The petitioner may be [the alleged incompetent's spouse, a relative, a creditor, a debtor, or] any person interested in the alleged incompetent's welfare. *The court may dismiss a proceeding where it finds as a fact that the proceeding has not been instituted to aid or benefit the alleged incompetent.* Notice of the petition and hearing shall be given in such manner as the court shall direct to the alleged incompetent, to all persons residing within the Commonwealth who are sui juris and would be entitled to share in the estate of the alleged incompetent if he died intestate at that time, and to such other parties as the court may direct. *The hearing may be closed to the public and without a jury unless the alleged incompetent or his counsel objects. The hearing shall be closed and with or without a jury if the person alleged to be incompetent or his counsel so requests.* The alleged incompetent shall be present at the hearing unless:

(i) the court is satisfied, upon the presentation of positive testimony, that because of his physical or mental condition his welfare would not be promoted by his presence; or

(ii) it is impossible for him to be present because of his absence from the Commonwealth. It shall not be necessary for the alleged incompetent to be represented by a guardian ad litem in the proceeding.

(b) Nonresident.—The court may find a person not domiciled in the Commonwealth, having property in the Commonwealth, to be incompetent and may appoint a guardian of his estate. The appointment may be made after petition, hearing and notice, as in the case of a person domiciled in the Commonwealth, or upon the submission of an exemplified copy of a decree establishing his incompetency in another jurisdiction. The court shall give preference in its appointment to the foreign guardian of the nonresident incompetent, unless it finds that such appointment will not be for the best interests of the incompetent.

(c) *Court-appointed physician.*—*Upon the filing of a petition the alleged incompetent may be examined by a physician appointed by the court who shall submit his report in writing to the court and to the parties before the hearing.*

§ 5515. Provisions similar to other estates.

The [grounds and the procedure for the removal or discharge of] provisions relating to a guardian of an incompetent and his surety [and the effect of such removal or discharge] shall be the same as are set forth in this code relating to [the removal and discharge of] a personal representative or a guardian of a minor and their sureties, with regard to the following:

* * *

§ 5521. Provisions concerning powers, duties and liabilities.

The provisions concerning the powers, duties and liabilities of guardians of incompetents' estates shall be the same as those set forth in this code relating to *personal representatives of decedents' [or] estates and guardians of* minors' estates with regard to the following:

* * *

(23) Order of court, as in section [3353] 5155 (relating to order of court).

* * *

(31) *Contracts, inadequacy of consideration or better offer; brokers' commissions, as in section 3360 (relating to contracts, inadequacy of consideration or better offer; brokers' commissions).*

Section 12. The subchapter analysis of Subchapter E of Chapter 55 of the title is amended by adding an item and a section is added to read:

SUBCHAPTER E

ACCOUNTS, AUDITS, REVIEWS AND DISTRIBUTION

Sec.

* * *

5533.1. *Account of personal representative of deceased incompetent.*

* * *

§ 5533.1. *Account of personal representative of deceased incompetent.*

A guardian shall be relieved of liability with respect to all real and personal estate distributed by him to the personal representative of a deceased incompetent and thereafter distributed by the personal representative in conformity with a decree of court, or in accordance with a rule of court upon an accounting of such personal representative and confirmation thereof.

Section 13. Subsection (b) of section 6103 and subsection (d) of section 6111 of the title are amended to read:

§ 6103. Release or disclaimer of powers or interests.

* * *

(b) Form of release or disclaimer.—A power or interest which is releasable or disclaimable may be released or disclaimed either absolutely or conditionally, and may also be released or disclaimed *with respect to the whole or any part of the property subject to such power or interest, and may also be released or disclaimed* in such manner as to reduce or limit the persons or objects or classes of persons or objects in whose favor such power or interest would otherwise be exercisable. No release or disclaimer of a power or of an interest shall be deemed to make imperative a power or interest which was not imperative prior to such release or disclaimer unless the instrument of release or disclaimer expressly so provides.

* * *

§ 6111. Conveyances to defeat marital rights.

* * *

(d) Procedure.—The election to treat a conveyance as testamentary shall be made in the same manner as an election to take against the will. If there is a will, such election shall be made within the same time limitations as an election to take against the will. If there is no will, such election shall be made within one year of the conveyor's death, and the orphans' court *division*, on application of the surviving spouse made within such period, may extend the time for making the election. It can be made only if there has been no forfeiture of the right to make an election. The court having jurisdiction of the deceased conveyor's estate shall determine the rights of the surviving spouse in the property included in the conveyance.

Section 14. The chapter analysis of Chapter 61 of the title is amended by adding an item and a section is added to read:

CHAPTER 61 ESTATES

Sec.

* * *

6118. *Invalidity of certain gifts.*

§ 6118. *Invalidity of certain gifts.*

Any gift for religious or charitable purposes to take effect in possession or enjoyment at or after the death of the donor and any promise made to give real or personal property for religious or charitable purposes shall be invalid and unenforceable if made within 30 days of the death of the donor or promisor to the extent that someone who would benefit by its invalidity objects: Provided, That the Commonwealth shall not have the right so to object. No such objection shall be valid unless it is in writing signed by the objector and unless a copy thereof shall be filed with the clerk of the court having jurisdiction within six months after the death of the donor or promisor. Each person so objecting shall receive the share he would have received if the entire gift had been invalid or the promise had been unenforceable, and the balance, if any, of the gift or promise shall be valid and enforceable.

Section 15. A paragraph is added to section 7133 and section 7306 and subsection (b) of section 7319 of the title are amended to read:

§ 7133. Powers, duties and liabilities identical with personal representatives.

The provisions concerning the powers, duties and liabilities of a trustee shall be the same as those set forth in this code for the administration of a decedent's or a minor's estate with regard to the following:

* * *

(21.1) Contracts, inadequacy of consideration or better offer; brokers' commissions, as in section 3360 (relating to contracts, inadequacy of consideration or better offer; brokers' commissions).

* * *

§ 7306. Obligations of governmental organizations existing pursuant to the laws of Pennsylvania, other states and the District of Columbia.

Obligations of any authority, commission or similar governmental organization existing pursuant to the laws of this Commonwealth or the laws of any other state or of the District of Columbia shall be authorized investments if purchased or retained in the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income to be derived therefrom as well as the probable safety of their capital. The authorization to make and retain investments pursuant to this section shall be in addition to, and independent of, authorizations to make investments pursuant to other provisions of this chapter ***and requirements applicable under other provisions of this chapter*** shall not affect investments also authorized by this section.

§ 7319. Directions of testator or settlor.

* * *

(b) Exception [**; failure of purpose**].—Where the instrument establishing a trust contains a restriction on the fiduciary's power of investment [**, the court having jurisdiction, in its discretion, may release the fiduciary from the investment restriction to the extent and subject to such conditions, if any, as the court may deem appropriate, if after hearing it is satisfied that the original purpose of the testator or the settlor cannot be carried out, or is impractical of fulfillment, and that the authorized release will more nearly approximate the intention of the testator or settlor.**] *and the court having jurisdiction over the trust finds that adherence to the restriction is impractical or that the existing or reasonably foreseeable economic conditions are so far different from those prevailing at the creation of the trust that adherence to the restriction might deprive the respective beneficiaries of income and principal of the full benefits the testator or settlor intended them to enjoy, the court may release the fiduciary from the restriction to such extent and on such conditions, if any, as the court may deem appropriate.*

Section 16. Chapter 82 of the title is repealed.

Section 17. The title is amended by adding a chapter to read:

CHAPTER 83 INALIENABLE PROPERTY

Sec.

- 8301. Powers of court to authorize sale, etc. of real property.
- 8302. Venue where real property is wholly in one county.
- 8303. Venue where real property is in more than one county.
- 8304. Procedure.
- 8305. Sale of real property subject to future inalienable interests; disposition of proceeds.
- 8306. Title of purchaser.
- § 8301. Powers of court to authorize sale, etc. of real property.

The court of common pleas, operating through its appropriate division, may authorize the sale, mortgage, lease or exchange of real property:

- (1) Where the legal title is held:
 - (i) by a person whose spouse is an incompetent, or has abandoned him or her for one year, or has been absent in circumstances from which the law would presume his or her decease;
 - (ii) by a tenant of an estate by entireties, when the other tenant of such estate has been absent in circumstances from which the law would presume his or her decease;
 - (iii) by corporations of any kind having no capacity to convey, or by any unincorporated association; or

(iv) by any religious, beneficial, or charitable society or association, incorporated or unincorporated, whose title is subject to forfeiture if real property is held in excess of the amount authorized by law.

(2) Where the legal title is an estate tail, or is subject to contingent remainders, executory interests, or remainders to a class some or all of whom may not be in being or ascertained at the time of the entry of the decree.

(3) Where the legal title is otherwise inalienable.

§ 8302. Venue where real property is wholly in one county.

In all proceedings under the provisions of this chapter involving real property lying wholly within one county the petition shall be presented only in the court of that county.

§ 8303. Venue where real property is in more than one county.

In all proceedings under the provisions of this chapter involving real property through which the line dividing two or more counties runs, the court of the county in which the residence is situated; or, if there be no residence, the court of the county where the principal improvements may be; or, if there be no improvements, the court of either county, may exercise jurisdiction as to the whole of such real property, irrespective of the county line; and its decree relating to that real property shall be as effectual as if the whole of that real property had been within the county whereof said court has jurisdiction. A certified copy of all proceedings shall be recorded in the office of the recorder of deeds of each county in which any of the real property is situated.

§ 8304. Procedure.

All jurisdiction conferred by this chapter shall be exercised on the petition of any party in interest, upon such terms and upon such security and after such notice as the court shall direct by general rule or special order.

§ 8305. Sale of real property subject to future inalienable interests; disposition of proceeds.

Where real property is held by a person or persons subject to future interests in a person or persons unborn, unascertained or not sui juris and it shall appear to the court that it would be to the interests of such persons having future interests that the real property should be sold, mortgaged, leased or exchanged, the court, upon the application of any party in interest, may appoint a trustee to sell, mortgage, lease or exchange the real property and to receive the proceeds and hold them in trust for such present and future interests as shall be directed by the court.

§ 8306. Title of purchaser.

If such bond, if any, as has been required by the court, has been given, the title acquired through any sale, mortgage, lease or exchange made pursuant to a decree of the court shall be indefeasible by any person

ascertained or unascertained, or any class of persons, referred to in the petition or decree and having a present or expectant interest in the property, and shall be unprejudiced by any error in the proceedings. No party who pays cash or other consideration pursuant to the decree shall be liable to see to the proper application thereof, nor shall he be in any manner subject to any trust limitation on, or defect in, the title set out in the petition or decree. Any sale or exchange under this chapter shall have the effect of a judicial sale as to the discharge of liens, but the court may decree a sale or exchange freed and discharged from the lien of any mortgage otherwise preserved from discharge by existing law, if the holder of such mortgage shall so consent by writing filed in the proceeding.

Section 18. Subsection (d) of section 8604 of this title is amended to read:

§ 8604. Manner of executing anatomical gifts.

* * *

(d) Notwithstanding section 8607(b) of this code (relating to rights and duties at death), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose *or, in the case of a gift of eyes, he may employ or authorize a funeral director licensed by the State Board of Funeral Directors who has successfully completed a course in eye enucleation approved by the State Board of Medical Education and Licensure to enucleate eyes for the gift after certification of death by a physician. A qualified funeral director acting in accordance with the terms of this subsection shall not have any liability, civil or criminal, for the eye enucleation.*

* * *

Section 19. Repeals.—The following acts are repealed absolutely:

The act of February 17, 1818 (P.L.104, Ch.LII.), entitled “An act to compel trustees to account in certain cases, and for other purposes.”

The act of March 22, 1825 (P.L.107, Ch.LXI.), entitled “An act to prevent the failure of trusts.”

The act of April 14, 1828 (P.L.453, No.193), entitled “An act to prevent the failure of trusts, to provide for the settlement of accounts of trustees and for other purposes.”

The act of March 21, 1831 (P.L.192, No.103), entitled “A further supplement to the act, entitled ‘A supplement to the act, entitled An act to compel assignees to settle their accounts, and for other purposes.’ ”

The act of March 15, 1832 (P.L.135, No.80), entitled “An act relating to Registers and Registers’ Courts.”

The act of June 14, 1836 (P.L.628, No.175), entitled “An act relating to assignees for the benefit of creditors, and other trustees.”

The act of March 17, 1838 (P.L.80, No.32), entitled "An act to empower the court of Common Pleas for the city and county of Philadelphia to appoint assignees or trustees in the place of the deceased assignees or trustees of John Vaughan, and for other purposes."

The act of April 13, 1840 (P.L.319, No.140), entitled "A further supplement to an act, entitled an act relating to Orphan's courts, passed the twenty-ninth day of March, one thousand eight hundred and thirty-two, and the supplement thereto, passed the fourteenth of April, one thousand eight hundred and thirty-five, and for other purposes."

The act of July 27, 1842 (P.L.436, No.126), entitled "An act to enable creditors to attach legacies and property inherited in the hands of Executors and Administrators, and for other purposes."

The act of April 29, 1844 (P.L.527, No.342), entitled "An act requiring registers for the probate of wills and granting letters of administration to keep a docket for certain purposes."

The act of April 10, 1848 (P.L.448, No.322), entitled "An act extending the chancery powers of, and to the jurisdiction and proceedings in, certain courts."

The act of March 14, 1849 (P.L.164, No.142), entitled "An act relative to sales made by persons acting in a fiduciary capacity."

The act of March 14, 1850 (P.L.195, No.163), entitled "An act relating to conveyances by trustees."

The act of April 25, 1850 (P.L.569, No.347), entitled "An act relating to the bail of executrixes; to partition in the orphans' court and common pleas; to colored convicts in Philadelphia; to the limitation of actions against corporations; to actions enforcing the payment of ground rent; to trustees of married women; to appeals from awards of arbitrators by corporations; to hawkers and pedlers in the counties of Butler and Union; to the payment of costs in actions by informers in certain cases; to taxing lands situate in different townships; and in relation to fees of county treasurers of Lycoming, Clinton and Schuylkill; to provide for recording the accounts of executors, administrators, guardians and auditors' reports; and to amend and alter existing laws relative to the administration of justice in this commonwealth."

Section 7 of the act of October 28, 1851 (1852, P.L.724, No.433), entitled "An act to annul the marriage contract of Philip Gangwer and Harriet his wife; relative to the trustee of the Green Ridge Improvement Company; the Loyalhanna Plank Road Company; to insane married women; and to the tax on the Short Mountain Coal Company."

The act of March 27, 1854 (P.L.214, No.183), entitled "An act relative to bringing suits by creditors and others against executors, administrators, assignees and other trustees in certain cases, and serving notices and for satisfaction of mortgages, and opening judgments in certain cases."

The act of April 30, 1855 (P.L.386, No.408), entitled "A supplement to the act, entitled 'An act relating to assignees for the benefit of creditors and other trustees,' approved the fourteenth June, one thousand eight hundred and thirty-six."

The act of May 3, 1855 (P.L.415, No.438), entitled "A supplement to an act relating to Assignees for the benefit of Creditors and other Trustees."

The act of April 17, 1856 (P.L.386, No.403), entitled "A supplement to an act relative to suits in dower and partition, passed twentieth February, one thousand eight hundred and fifty-four."

The act of March 22, 1859 (P.L.207, No.209), entitled "An act relative to Orphans' Courts."

The act of May 1, 1861 (P.L.431, No.403), entitled "An act authorizing surviving Executors and Administrators to execute and deliver Deeds of Conveyance in certain cases."

The act of May 1, 1861 (P.L.680, No.641), entitled "An act relating to Executors and other Trustees."

The act of March 27, 1865 (P.L.44, No.30), entitled "An act providing additional remedies against trustees of a trust created for life or during marriage, and providing a remedy for the protection of their sureties."

The act of April 11, 1866 (P.L.780, No.771), entitled "An act authorizing persons, whose wives, or husbands, are non compos mentis, to sell, mortgage, lease for years and convey, upon ground rent, real estate held in their own right."

The act of April 17, 1866 (P.L.111, No.101), entitled "A supplement to an act, entitled 'An act providing additional remedies against trustees of a trust, created for life, or during marriage, and providing a remedy for the protection of their sureties,' approved March twenty-seventh, one thousand eight hundred and sixty-five."

The act of April 9, 1868 (P.L.785, No.726), entitled "An act to authorize the court of common pleas and orphans' court of the city of Philadelphia to appoint and remove trustees."

The act of February 26, 1869 (P.L.4, No.3), entitled "A supplement to an act, entitled 'An act relative to the orphans' court,' approved the thirteenth day of March, one thousand eight hundred and forty-seven, confirming certain partitions."

The act of April 13, 1869 (P.L.28, No.28), entitled "A supplement to the act relating to orphans' courts, approved the twenty-ninth day of March, Anno Domini one thousand eight hundred and thirty-two."

The act of May 17, 1871 (P.L.269, No.250), entitled "A supplement to an act relating to assignees for the benefit of creditors and other trustees, approved June fourteenth, one thousand eight hundred and thirty-six."

The act of May 23, 1874 (P.L.222, No.144), entitled "An act to facilitate the transfer of stocks and loans."

The act of April 28, 1876 (P.L.50, No.41), entitled "An act to validate sales and conveyances, under the decrees of courts of this commonwealth, by persons irregularly or improperly appointed or defectively qualified."

The act of May 13, 1876 (P.L.172, No.136), entitled "An act to confirm titles to real estate under allotments and sales had under orders of the orphans' courts in certain proceedings in partition."

The act of February 16, 1877 (P.L.3, No.1), entitled "An act relating to the execution of trusts by corporations."

The act of March 24, 1877 (P.L.39, No.36), entitled "An act to authorize the courts to decree private sales of real estate in certain cases."

The act of May 22, 1878 (P.L.83, No.105), entitled "An act to provide for and to validate the execution and delivery of deeds and conveyances of real estate, in cases in which administrators, executors, guardians and trustees, may die or have died, between the time of sale and the time appointed for the payment of purchase money and delivery of the conveyance, and also in cases in which the administrator, executor, guardian or trustee may have received authority from the proper court to purchase real estate sold by him, either under the provisions of any last will and testament, or by the authority or under the direction of any court having jurisdiction to make a decree, directing such real estate to be sold."

The act of May 8, 1889 (P.L.123, No.134), entitled "An act to authorize courts, having cognizance of trusts created by deed or will, to direct trust funds to be placed in the custody of trustees appointed by the courts of another State or territory of the United States, in cases where the person or persons beneficially interested in such trust have removed to such other State or territory of the United States."

The act of April 22, 1891 (P.L.25, No.21), entitled "An act to authorize grants and conveyances by married women who are trustees and to confirm and validate certain grants and conveyances."

The act of June 3, 1893 (P.L.273, No.242), entitled "An act to enable the surety of any trustee, committee, guardian, assignee, receiver, administrator, executor, or other trustee, or any person interested in the trust, to require the filing of statements exhibiting the manner of the investment of the trust funds, and providing for the removal of such trustee, committee, guardian, assignee, receiver, administrator, executor, or other trustee, by the court."

The act of June 16, 1893 (P.L.464, No.334), entitled "An act to validate partitions of real estate in cases of testacy made in orphans' courts prior to the act of ninth of May, one thousand eight hundred and eighty-nine."

The act of June 24, 1895 (P.L.248, No.158), entitled "An act to allow receivers, assignees, guardians, committees, trustees, executors and

administrators to include in the lawful expenses of executing their trusts such reasonable sum paid a company, authorized under the laws of this State so to do, for becoming their surety as may be by court allowed, not exceeding one per centum per annum on the amount of such bonds.”

The act of April 4, 1901 (P.L.66, No.34), entitled “An act to validate private sales of real estate of decedents, heretofore made under authority of orphans’ courts upon petition of executors or administrators for payment of debts.”

The act of May 11, 1901 (P.L.174, No.141), entitled “An act to allow an executor, administrator, guardian, assignee, or trustee to institute an action at law, or other legal or equitable proceedings, against a co-executor, administrator, guardian, assignee or trustee, to recover or enforce any debt or obligation individually due the estate which he represents.”

The act of May 21, 1901 (P.L.271, No.178), entitled “An act to provide for the election of recorders of deeds and registers of wills in counties having a population of over one hundred and fifty thousand.”

The act of June 7, 1901 (P.L.513, No.249), entitled “A supplement to an act, entitled ‘An act to confer power on the several orphans’ courts having jurisdiction of the accounts of executors and administrators to order and direct a sale, for the payment of the debts of such decedent, of any lands lying partly in two or more counties,’ approved the fourth day of June, Anno Domini one thousand eight hundred and eighty-three.”

The act of May 28, 1907 (P.L.271, No.207), entitled “An act to allow receivers, assignees, guardians, committees, trustees, executors, and administrators to include in the lawful expenses of executing their trusts such reasonable sum paid a company, authorized under the laws of this State so to do, for guaranteeing the payment of the principal and interest of mortgages or other securities in which they are required to invest the funds of their estate, not exceeding one-half of one per centum per annum on the principal of such mortgage or other securities.”

The act of June 1, 1907 (P.L.384, No.279), entitled “An act to provide for the discharge of sureties upon bonds of trustees, committees, guardians, assignees, receivers, executors, administrators, and other fiduciaries.”

The act of May 3, 1909 (P.L.391, No.220), entitled “An act to provide for the filing, auditing, and confirmation, in certain cases, of accounts of trustees and of committees of lunatics and of habitual drunkards.”

The act of April 27, 1911 (P.L.101, No.93), entitled “An act for the assignment of judges to districts other than their own, for the purpose of expediting business, with provision for their compensation.”

The act of July 21, 1913 (P.L.871, No.421), entitled “An act to validate private sales of real estate of decedents, heretofore made under the provisions of an act approved the ninth day of May, one thousand eight hundred and eighty-nine, entitled ‘An act relating to orphans’

court sales,' which were not advertised in accordance with said act as amended."

The act of April 2, 1915 (P.L.43, No.30), entitled "An act confirmatory of the conveyance of real estate."

The act of April 10, 1915 (P.L.112, No.50), entitled "An act to validate all sales, public and private, and all mortgages, of real estate of decedents, heretofore made under authority of orphans' courts, upon petition of executors or administrators."

The act of April 23, 1915 (P.L.177, No.99), entitled "An act providing for the appointment and expenses of a Commission of three persons, learned in the law, to codify and revise the law of decedents' estates, and making an appropriation."

The act of May 14, 1915 (P.L.494, No.209), entitled "An act to validate appraisements and titles made and effected to surviving husbands and wives by virtue of an act, entitled 'An act to amend section one of an act, entitled "An act relating to the descent and distribution of the estates of intestates," passed and approved April eighth, one thousand eight hundred and thirty-three, defining and declaring the interest that shall descend to and vest in the surviving husband or wife of such intestate,' approved the first day of April, Anno Domini one thousand nine hundred and nine."

The act of May 28, 1915 (P.L.633, No.272) entitled "An act validating certain proceedings appraising and setting aside of property, under article two of section one of an act, entitled 'An act to amend section one of an act entitled "An act relating to the descent and distribution of the estate of intestates," passed and approved April eighth, one thousand eight hundred and thirty-three; defining and declaring the interest that shall descend to and vest in the surviving husband or wife of such intestate,' approved the first day of April, one thousand nine hundred and nine."

The act of April 5, 1917 (P.L.45, No.26), entitled "An act validating certain proceedings appraising and setting aside of property under article two of section one of an act, entitled 'An act to amend section one of an act, entitled "An act relating to the descent and distribution of the estates of intestates," passed and approved April eighth, one thousand eight hundred and thirty-three; defining and declaring the interest that shall descend to and vest in the surviving husband or wife of such intestate,' approved the first day of April, one thousand nine hundred and nine."

The act of April 5, 1917 (P.L.46, No.27), entitled "An act authorizing executors, administrators, guardians, and other trustees to invest trust funds in farm loan bonds issued by Federal Land Banks, under the provisions of the act of Congress of the United States of July seventeenth, one thousand nine hundred and sixteen, its amendments, or supplements."

The act of June 7, 1917 (P.L.337, No.187), known as the "Orphans' Court Partition Act of 1917."

The act of June 7, 1917 (P.L.415, No.191), entitled "An act relating to the qualification, jurisdiction, powers, and duties of registers of wills, and regulating proceedings before said registers and the costs thereof, the effects of their acts, and appeals therefrom."

The act of July 11, 1917 (P.L.790, No.297), entitled "An act authorizing trustees, guardians, and other fiduciaries to sell, assign, alter, modify, or supplement coal-mining leases, with the approval of the court having jurisdiction of their accounts."

The act of July 11, 1917 (P.L.803, No.306), entitled "An act authorizing registers of wills to deputeize the register of wills of another county to take the affidavit of witnesses to wills for the proof of such wills."

The act of July 18, 1917 (P.L.1067, No.350), entitled "An act to validate appraisements and titles made and effected to surviving husbands and wives by virtue of an act, entitled 'An act relating to the descent and distribution of the estates of intestates,' approved the eighth day of April, one thousand eight hundred thirty-three, and the amendments thereto."

The act of July 19, 1917 (P.L.1126, No.384), entitled "An act to confirm titles to real estate, under allotments and sales had under orders of the orphans' courts in proceedings in partition."

The act of June 4, 1919 (P.L.372, No.183), entitled "An act to establish a separate orphans' court in and for the county of Cambria."

The act of July 7, 1919 (P.L.726, No.291), entitled "An act ratifying and confirming the appointment of guardians and the sales of real estate of feeble-minded persons where the orphans' court of the proper county, since the twenty-eighth day of May, Anno Domini one thousand nine hundred and seven, have appointed guardians of the estates of feeble-minded persons, and decreed or approved the sales of the real estate of such persons, with like effect as if said proceedings, decrees of sale, or approvals had been taken in the court of common pleas of the proper county."

The act of July 8, 1919 (P.L.736, No.299), entitled "An act to establish a separate orphans' court in and for the county of Washington."

The act of July 10, 1919 (P.L.886, No.350), entitled "An act to bar the rights of husbands and wives in the personal estate of wives or husbands who shall have died intestate prior to May third, one thousand nine hundred and fifteen, where such surviving husbands or wives shall have, for one year or upwards previous to such death, wilfully and maliciously deserted such deceased wife or husband, unless an action for the recovery thereof be instituted within one year after the approval hereof."

The act of April 11, 1921 (P.L.121, No.71), entitled "An act to establish a separate orphans' court in and for the county of Delaware."

The act of May 24, 1921 (P.L.1075, No.397), entitled "An act to establish a separate orphans' court in and for the county of Erie."

The act of June 27, 1923 (P.L.846, No.326), entitled "An act providing a means whereby real estate devised upon a trust to divide it among other persons, and the trustee has died without performing the trust, may be divided amicably by the interested persons with the approval of the orphans' court and the legal title be vested in them by judicial decree."

The act of March 29, 1927 (P.L.72, No.51), entitled "An act confirmatory of guardians' sales of real estate."

The act of April 4, 1929 (P.L.149, No.150), entitled "An act authorizing guardians of minors to expend parts of the income of said minors in life insurance policies, with leave of the orphans' court, and stipulating the rights of such minors in regard thereto upon becoming of age."

The act of March 11, 1933 (P.L.11, No.8), entitled "An act ratifying and confirming sales of real estate of feeble-minded persons, where the orphans' court of the proper county decreed or approved the sales of the real estate of such persons, with like effect as if said proceedings and sales had been taken in the court of common pleas of the proper county."

The act of April 26, 1933 (P.L.88, No.56), entitled "An act empowering a court in which a suit for the recovery of damages for personal injuries to a minor is pending to make an order authorizing a compromise or settlement to be made for such minor; and empowering a court in which a judgment is obtained for such minor, or by which a compromise or settlement is approved, to fix counsel fees and other expenses incident to said suit and to award the balance to a duly appointed guardian of such minor, and limiting the liability of said guardian to the sum of money thus coming into his hands."

The act of July 15, 1935 (P.L.1025, No.338), entitled "An act providing that investment in shares of Federal Savings and Loan Associations or shares of other institutions, insured under the Federal Savings and Loan Insurance Corporation, shall be legal for trust funds."

The act of May 26, 1939 (P.L.230, No.132), entitled "An act to validate private sales of real estate of decedents heretofore made under authority of orphans' courts upon petition of executors or administrators for payment of debts."

The act of June 24, 1939 (P.L.871, No.374), entitled "An act defining the liability of persons signing instruments in writing in a fiduciary capacity, regulating actions on such instruments and execution on judgments obtained in such actions, and excepting certain actions from the provisions of said act."

The act of April 18, 1945 (P.L.253, No.113), entitled "An act providing for the appointment of guardians in inter vivos deeds, or gifts, or under insurance, or annuity policies."

The act of January 9, 1952 (P.L.1861, No.500), entitled "An act to establish a separate orphans' court in and for the county of Beaver."

The act of June 3, 1953 (P.L.278, No.52), entitled "An act validating legal instruments executed by fiduciaries without setting forth their fiduciary capacity."

The act of July 29, 1953 (P.L.968, No.233), entitled "An act to establish a separate orphans' court in and for the County of Chester."

The act of February 28, 1956 (P.L.1154, No.359), known as the "Incompetents' Estates Act of 1955."

The act of August 8, 1961 (P.L.969, No.433), entitled "An act fixing the salary of the register of wills of Philadelphia."

The act of August 6, 1963 (P.L.508, No.265), entitled "An act establishing a separate orphans' court in and for the County of Bucks."

The act of August 14, 1963 (P.L.842, No.411), entitled "An act validating certain conveyances of real estate by executors of the estates of decedents."

The act of June 16, 1972 (P.L.426, No.124), entitled "An act amending the act of April 18, 1949 (P.L.512, No.121), entitled 'An act relating to the administration and distribution of decedents' estates, trust estates, minors' estates and absentees' estates, both as to real and personal property, and the procedure relating thereto; including the disposition of such estates or portions thereof and the determination of title thereto without the appointment of a fiduciary in certain cases; the appointment, bond, removal and discharge of fiduciaries of such estates, their powers, duties and liabilities; the rights of persons dealing with such fiduciaries, and the rights of persons claiming an interest in such estates or in property distributed therefrom whether as claimants or distributees, and containing provisions concerning guardians of the person of minors, the powers, duties and liabilities of sureties and of foreign fiduciaries, the abatement, survival and control of actions and rights of action, and the presumption of death; and also generally dealing with the jurisdiction, powers and procedure of the orphans' court and of the register of wills in all matters relating to fiduciaries,' reducing certain age requirements."

The act of June 16, 1972 (P.L.453, No.140), entitled "An act amending the act of April 24, 1947 (P.L.89, No.38), entitled 'An act relating to the form, execution, revocation, operation, and interpretation of wills; to nuncupative wills; to the appointment of testamentary guardians; to elections to take under or against wills and the procedure in reference thereto,' reducing certain age requirements."

The act of December 6, 1972 (P.L.1337, No.288), entitled "An act amending the act of December 16, 1969 (P.L.366, No.161), entitled 'An

act authorizing the gift of all or part of a human body after death for specified purposes,' authorizing the enucleating of eyes by funeral directors."

The act of December 28, 1972 (P.L.1666, No.356), entitled "An act relating to gifts for charitable and religious purposes taking effect on the death of the donor and promises to give property for charitable and religious purposes; providing for their validity and enforceability if made within thirty days of the death of the donor or promisor."

Section 20. Effective date and legislative intent.—(a) In general. This act shall take effect immediately.

(b) Exceptions; legislative intent. As it is the intent of the General Assembly that the language added to sections 908, 2510, the second, fourth and fifth sentences of section 3102, section 3351, paragraph (6) of section 5153, the first sentence of section 5154, section 5303, the second sentence of subsection (g) of section 5305, paragraph (31) of section 5521, section 5533.1, subsection (b) of section 6103, subsection (d) of section 6111, and paragraph (21.1) of section 7133, should have been enacted in the Probate, Estates and Fiduciaries Code, said inclusions shall be retroactive to July 1, 1972, the effective date of said code.

APPROVED—The 10th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 293.

A handwritten signature in cursive script, reading "C. McLaughlin Tucker".

Secretary of the Commonwealth.