

as the case may be. A copy of such resolution or by-law shall be duly acknowledged by the secretary of such corporation, and shall be recorded in the office of the recorder of deeds of the county where the principal office of the corporation is located. After the filing and recording of such resolution or by-law, the charter of the corporation shall be considered amended in accordance with such resolution or by-law: Provided, however, That no meeting pursuant to such resolution or by-law shall be held unless written notice thereof shall have been given to each member or stockholder of such corporation at least thirty days before such meeting, which said notice shall be mailed to each member or stockholder of such corporation to his or her last known address.

Proviso.

Notice of meetings to members.

APPROVED—The 30th day of March, A. D. 1921.

WM. C. SPROUL.

No. 29.

#### AN ACT

To amend paragraphs (a), (b), (c), (d), (e), (f), and (g) of section thirty-five of an act, approved the seventh day of June, one thousand nine hundred seventeen, entitled "An act relating to the administration and distribution of the estates of decedents and of minors, and of trust estates; including the appointment, bonds, rights, powers, duties, liabilities, accounts, discharge, and removal of executors, administrators, guardians, and trustees, herein designated as fiduciaries; the administration and distribution of the estates of presumed decedents; widow's and children's exemptions; debts of decedents, rents of real estate as assets for payment thereof, the lien thereof, sales and mortgages of real estate for the payment thereof, judgments and executions therefor, and the discharge of real estate from the lien thereof; contracts of decedents for the sale or purchase of real estate; legacies, including legacies charged on land; the discharge of residuary estates and of real estate from the lien of legacies and other charges; the appraisement of real estate devised at a valuation; the ascertainment of the curtilage of dwelling houses or other buildings devised; the abatement and survival of actions, and the substitution of executors and administrators therein, and suits against fiduciaries; investments by fiduciaries; the organization of corporations to carry on the business of decedents; the audit and review of accounts of fiduciaries; refunding bonds; transcripts to the court of common pleas of balances due by fiduciaries; the rights, power, and liabilities of non-resident and foreign fiduciaries; the appointment, bonds, rights, powers, duties, and liabilities of trustees durante absentia; the recording and registration of decrees, reports, and other proceedings, and the fees therefor; appeals in certain cases; and also generally dealing with the jurisdiction, powers, and procedure of the orphans' court in all matters relating to fiduciaries concerned with the estates of decedents."

Section 1. Be it enacted, &c., That paragraphs (a), (b), (c), (d), (e), (f), and (g) of section thirty-five of an act, approved the seventh day of June, one thousand nine hundred and seventeen (Pamphlet Laws, four hundred and forty-seven), entitled "An act relat-

Decedents' estates.

Clauses of section 35, act of June 7, 1917 (P. L. 447), amended.

Abatement  
and survival  
of actions.

ing to the administration and distribution of the estates of decedents and of minors, and of trust estates; including the appointment, bonds, rights, powers, duties, liabilities, accounts, discharge and removal of executors, administrators, guardians, and trustees, herein designated as fiduciaries; the administration and distribution of the estates of presumed decedents; widow's and children's exemptions; debts of decedents, rents of real estate as assets for payment thereof, the lien thereof, sales and mortgages of real estate for the payment thereof, judgments and executions therefor, and the discharge of real estate from the lien thereof; contracts of decedents for the sale or purchase of real estate; legacies, including legacies charged on land; the discharge of residuary estates and of real estate from the lien of legacies and other charges; the appraisal of real estate devised at a valuation; the ascertainment of the curtilage of dwelling houses or other buildings devised; the abatement and survival of actions and the substitution of executors and administrators therein, and suits against fiduciaries; investments by fiduciaries; the organization of corporations to carry on the business of decedents; the audit and review of accounts of fiduciaries; refunding bonds; transcripts to the court of common pleas of balances due by fiduciaries; the rights, powers, and liabilities of non-resident and foreign fiduciaries; the appointment, bonds, rights, powers, duties, and liabilities of trustees durante absentia; the recording and registration of decrees, reports, and other proceedings and the fees therefor; appeals in certain cases; and also generally dealing with the jurisdiction, powers, and procedure of the orphans' court in all matters relating to fiduciaries concerned with the estates of decedents," which read as follows:—

Clause (a)  
cited for  
amendment.

"Section 35. (a) No personal action hereafter brought, except actions for slander and for libels, and no action for mesne profits or for trespass to real property, shall abate by reason of the death of the plaintiff or the defendant; but the executor or administrator of the deceased party may be substituted as plaintiff or as defendant, as the case may be, and the suit prosecuted to final judgment and satisfaction.

Clause (b)  
cited for  
amendment.

"(b) Executors or administrators shall have power to commence and prosecute all actions for mesne profits or for trespass to real property, and all personal actions which the decedent whom they represent might have commenced and prosecuted, except actions for slander and for libels; and they shall be liable to be sued in any such action, except as aforesaid, which might have been maintained against such decedent if he had lived.

Clause (c)  
cited for  
amendment.

"(c) In all actions of ejectment which may be pending at the time of the death of any vendor of real

estate, when the object is to enforce the payment of purchase-money due and owing upon an agreement of sale of such real estate, it shall and may be lawful for the executors and administrators of the deceased vendor to sustain the same, in their own names, to the same extent and in like manner as their testator or intestate if living could do.

“(d) The executors or administrators of every person who was the proprietor of any rent-charge, or other rent or reservation in nature of a rent, in fee or otherwise, as mentioned in section eleven, clause (f) of this act, shall and may have an action for the arrears of such rent, due to the decedent at the time of his decease, against the person who ought to have paid such rent, or his executors or administrators; or they may distrain therefor upon the lands or tenements which were charged with the payment thereof and liable to the distress of such decedent, so long as such lands or tenements remain and are in the seisin or possession of the tenant who ought to have paid such rent, or in the possession of any other person claiming the same from or under the same tenant by purchase, gift, or descent, in like manner as such decedent might have done if he had lived.

Clause (d)  
cited for  
amendment.

“(e) The executors or administrators of any tenant for life, who shall die before or on a day on which any rent was reserved or made payable upon any demise or lease of any real estate, which determined on the death of such tenant for life, may have an action to recover from the lessee or under-tenant of such real estate, if such tenant for life die on the day on which the same was made payable, the whole, or, if before the day, a proportion of such rent, for the last year or quarter of a year, or other current period of payment, according to the time elapsed at the decease of such tenant for life, as aforesaid.

Clause (e)  
cited for  
amendment.

“(f) The executors or administrators of any person who at the time of his decease was a party plaintiff, petitioner, defendant, or respondent in any action, or legal or equitable proceeding, pending in any court of this Commonwealth, shall have full power, if the cause of action shall by law survive to or against them, to become party thereto, and prosecute or defend such suit or proceeding to final judgment or decree as fully as such decedent might have done if he had lived; and if such party die after judgment, certificate, or decree in his favor, his executors or administrators may proceed to execution thereupon as such party might have done if he had lived.

Clause (f)  
cited for  
amendment.

“(g) The court in which any action, or legal or equitable proceeding, may be pending at the time of the decease of a party plaintiff, petitioner, defendant, or respondent, shall have power to require by writ of scire facias the executors or administrators of such

Clause (g)  
cited for  
amendment.

party, within twenty days after the service thereof, to become party to such action or proceeding, or to show cause why they should not be made party thereto by judgment of the court and further proceedings be had in such action or proceeding; but in every such case the executors or administrators who shall become party as aforesaid, shall be entitled to a reasonable continuance of such action or proceeding according to the circumstances of the case," be amended to read as follows:—

Personal actions.

Trespass.

Decedent joint plaintiff or defendant.

Survival of causes of action.

Ejectment to enforce payment of purchase-money.

Arrearages of rent-charge

Distress

Section 35. (a) No personal action hereafter brought, except actions for slander and for libels, and no action for mesne profits or for trespass to real property, shall abate by reason of the death of the plaintiff or the defendant, *or by reason of the death of one or more joint plaintiffs or defendants*; but the executor or administrator of the deceased party may be substituted as plaintiff or as defendant, as the case may be, and the suit prosecuted to final judgment and satisfaction.

(b) Executors or administrators shall have power, *either alone or jointly with other plaintiffs*, to commence and prosecute all actions for mesne profits or for trespass to real property, and all personal actions which the decedent whom they represent might have commenced and prosecuted, except actions for slander and for libels; and they shall be liable to be sued, *either alone or jointly with other defendants*, in any such action, except as aforesaid, which might have been maintained against such decedent if he had lived.

(c) In all actions of ejectment which may be pending at the time of the death of any vendor of real estate, when the object is to enforce the payment of purchase-money due and owing upon an agreement of sale of such real estate, it shall and may be lawful for the executors and administrators of the deceased vendor to sustain the same, in their own names, to the same extent and in like manner as their testator or intestate if living could do.

(d) The executors or administrators of every person who was the proprietor of any rent-charge or other rent, or reservation in nature of a rent, in fee or otherwise, as mentioned in section eleven, clause (f) of this act, shall and may have an action for the arrearages of such rent, due to the decedent at the time of his decease, against the person who ought to have paid such rent, or his executors or administrators; or they may distress therefor upon the lands or tenements which were charged with the payment thereof and liable to the distress of such decedent, so long as such lands or tenements remain and are in the seisin or possession of the tenant who ought to have paid such rent, or in the possession of any other person claiming

the same from or under the same tenant by purchase, gift, or descent, in like manner as such decedent might have done if he had lived.

(e) The executors or administrators of any tenant for life, who shall die before or on a day on which any rent was reserved or made payable upon any demise or lease of any real estate, which determined on the death of such tenant for life, may have an action to recover from the lessee or under-tenant of such real estate, if such tenant for life die on the day on which the same was made payable, the whole, or, if before the day, a proportion of such rent for the last year or quarter of a year or other current period of payment, according to the time elapsed at the decease of such tenant for life as aforesaid.

Amount  
of rent  
recoverable.

(f) The executors or administrators of any person who, at the time of his decease, was a party plaintiff, petitioner, defendant, or respondent in any action, or legal or equitable proceeding, pending in any court of this Commonwealth, shall have full power, if the cause of action shall by law survive to or against them, to become party thereto, and prosecute or defend such suit or proceeding to final judgment or decree as fully as such decedent might have done if he had lived; and if such party die after judgment, certificate, or decree in his favor, his executors or administrators may proceed to execution thereupon as such party might have done if he had lived. *This clause shall apply whether the decedent is a sole or joint plaintiff, petitioner, defendant, or respondent.*

Substitution  
of representatives  
in pending  
actions.

(g) The court in which any action, or legal or equitable proceeding, may be pending at the time of the decease of a party plaintiff, petitioner, defendant, or respondent, shall have power to require by writ of scire facias the executors or administrators of such party, within twenty days after the service thereof, to become party to such action or proceeding, or to show cause why they should not be made party thereto by judgment of the court and further proceedings be had in such action or proceeding; but in every such case the executors or administrators, who shall become party as aforesaid, shall be entitled to a reasonable continuance of such action or proceeding according to the circumstances of the case. *This clause shall apply whether the decedent is a sole or joint plaintiff, petitioner, defendant, or respondent.*

Scire facias.

APPROVED—The 30th day of March, A. D. 1921.

WM. C. SPROUL.