

CHAP. 101. Executor or administrator to the person or persons obtaining the said letters testamentary or of administration, and in case the same shall be controverted, it shall be ascertained and determined by a jury, in the same manner as in cases of *scire facias*, suggesting assets against the second executor or administrator, and in case of a verdict and judgment being given against such former executor or administrator, execution may issue thereon in the same manner as against other executors or administrators, and the plaintiff may also proceed against the securities in the same manner as against the securities of an executor or administrator whose letters have not been revoked.

8. AND, whereas compelling an executor or administrator to take notice of all judgments and decrees against the deceased is productive of great inconvenience, as well to the executor or administrator as to the other creditors, in as much as he cannot, with safety, pay off other debts, though the said judgments or decrees may be fully discharged, unless such executor or administrator is in possession of the receipt or other legal evidence of the payment; and it appearing proper that such creditors, as to the manner and time of producing their claims, should be placed in the same situation as others; therefore, BE IT ENACTED, That an executor or administrator shall not be bound to take notice of or discover any judgment or decree against his or her deceased, but such judgment or decree creditor shall exhibit his claim in the same manner as other creditors, and in case the same shall not be exhibited, such claim shall be barred in the same manner as if it rested on bond or simple contract; *Provided*, that nothing herein contained shall extend, or be construed to extend, to deprive such creditor of the preference given by the original act, in cases where the claim is in due time exhibited.

Executor, &c.
not bound to take
notice of judgment
against deceased,
&c.

Proviso.

Order by register
or court not to be
valid, but may be
contested.

9. AND BE IT ENACTED, That in no case shall the order made by the orphans court, or by the register of wills, that an account or claim will pass when paid, be deemed of validity to establish such account or claim, but in case the executor or administrator thinks fit to contest the same, such account or claim shall derive no validity from the order aforesaid, but shall be proved in the same manner as if no such order had been made.

Suits brought may
be proceeded on.

10. AND BE IT ENACTED, That in all cases where suits have been brought, and are now depending, against an executor or administrator, the same shall be proceeded on according to the provisions of this act; *Provided*, that to enable such executor or administrator to plead such new matter or plea as this alteration of the law may require, and to support the same by evidence, it shall be lawful for the court before whom such suit may be depending to continue such suit until the end of the third term after the term to which suit might have been continued before the passage of this act.

Proviso.

11. AND, whereas the personal property of deceased persons, who have died or shall die intestate, without leaving representatives within certain degrees of consanguinity by the acts of seventeen hundred and nineteen, chapter fourteen, and seventeen hundred and twenty-nine, chapter twenty-four, devolved on the free schools of the county of the deceased, and in most of the counties the free schools having been abolished, the executor or administrator of such deceased persons have retained the property to their own use and