

TESTAMENTARY SYSTEM.

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.

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, or a certificate under the seal of office, stating the substance thereof, 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, on the petition to chancery 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, shall be conclusive against the party; and a certificate from the register in chancery, under seal, stating the substance of the proceeding, 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. If any person, named in a will as an executor, shall be under the age of twenty-one years, he shall not be entitled to letters testamentary; but the same, or letters of administration, shall be granted, as if he were not so named, unless the said person's natural guardian, or his guardian appointed by will, or chosen as hereafter directed, shall enter his consent on the records of the orphans court; and in case letters testamentary shall be granted, under such circumstances, 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 *feme-covert*, or 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.

C H A P. VI.

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

1. **N**O 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