

TESTAMENTARY SYSTEM.

creditors to stay proceedings, the court shall not proceed to decree a sale, unless application be made by another creditor or creditors within three years after the death aforesaid, or after the passage of this act.

3. Any heir or devisee, who shall *bonâ fide* have sold the land which to him or her hath descended or been devised as aforesaid, before any application as aforesaid of a creditor made to the chancery court, shall be answerable no further than the amount of the price of the land; and if any such heir or devisee shall have made such *bonâ fide* sale, and shall apply the money thence arising, without observing the rules laid down in this act, or the act of seventeen hundred and eighty-five, chapter eighty, as the case may require, he shall be liable, out of his own estate, for such proportionable share as any creditor of the deceased ought to have, to be recovered by suit within three years from the death of the ancestor or testator, or the passage of this act.

4. No *bonâ fide* purchaser from an heir or devisee shall, in any manner, be answerable for any debt due from the ancestor or deviser, unless the same were known by, or notified to, the said purchaser, before the sale; and such person shall, in no case, and in no manner, be answerable, unless suit be brought within the time aforesaid in the chancery court.

5. Whereas it is the intent of the act aforesaid of seventeen hundred and eighty-five, chapter eighty, as well as of this act, that real assets, or land in the hands of an heir or devisee, be distributed amongst creditors in the same manner as personal assets, but it will be impracticable for a court of law, on suits brought by the different creditors, to do justice to all parties, according to the intent of the law, no suit shall be maintainable at law, against an heir or devisee, but the proceedings may be as aforesaid, in the court of chancery; provided nevertheless, that at the instance of either party, viz. of a creditor, or heir or devisee, the said court shall direct any issue or issues to be tried by a court of law, to establish or refute a claim, or determine any fact thereto relative.

C H A P. XIII.

Distribution of an intestate's personal estate.

WHEN all the debts of an intestate, exhibited and proved, or notified and not barred, shall have been discharged, or settled and allowed to be retained, as herein directed, the administrator shall proceed to make distribution of the surplus as follows:

1. If the intestate leave a widow, and no child, parent, or collateral relation, more remote than a brother or sister, or the child of a brother or sister of the said intestate, the said widow shall be entitled to the whole.

2. If there be a widow, and a child or children, or a descendant or descendants from a child, the widow shall have one third only.

3. If there be a widow, and no child or descendants of the intestate, but the said intestate shall leave a father or mother, or brother or sister, or child of a brother or sister; the widow shall have one half.

4. The surplus, exclusive of the widow's share, or the whole surplus, (if there be no widow,) shall go as follows.

5. If there be children, and no other descendant, the surplus shall be divided equally amongst them.

6. If there be a child or children, and a child or children of a deceased child, the child or children of such deceased child shall take such share as his, her or their deceased parent would (if alive) be entitled to; and every other descendant, or other descendants in existence at the death of the intestate, shall stand in