

the deceased; and they shall be entitled to, or be answerable for costs, in the same manner as the deceased would have been, and they shall be allowed for the same in their accounts, provided the court awarding costs against them shall certify, that there were probable grounds for instituting, prosecuting or defending, the action on which a judgment or decree shall have been given against them.

Accounts of administration, and the conduct of executors and administrators relative to paying and collecting debts.

SEC. 6. In no action against an executor or administrator shall he be compelled to put in special bail.

SEC. 7, 8, 9. Repealed by 1802, ch. 101.

SEC. 10. It shall be the duty of all executors and administrators to pay all just claims against the deceased, exhibited to them, or a just proportionable part thereof, according to the assets; and if any claim be known to the executor or administrator, (although the same be not exhibited,) he shall retain the same, or a just proportionable part, for the benefit of the creditors, provided he can satisfy the court, that such claim is just, or may probably be recovered; and when it is certain that there is a claim of a person out of the state, but the amount thereof cannot be ascertained, the court may allow such sum as it shall think proper to be retained, to be accounted for nevertheless, if within three years after the death of the deceased no demand shall be made by the creditor, or his legal representative, and suit thereon brought on the rejection thereof by the executor or administrator, and from the time of making payment to, or a dividend amongst, the creditors, as hereafter directed, all interest on such claim, or proportionable part, shall cease; provided, that the executor or administrator shall pay, or tender the same, together with such further part as shall be due on further money coming into hand, to the creditor, on demand; and in case the executor or administrator, on demand of a greater sum made by such creditor, shall tender the principal and interest which were due at the time of such dividend, or the just proportionable part, together with such further proportion as aforesaid of assets, and the claimant shall notwithstanding bring suit, the said executor or administrator, at any time before judgment, may bring into court the money so tendered, or money to an equal amount, and if he shall satisfy the court, that the said sum was really the amount of the principal and interest due at the time of such dividend, or of the proportionable part to which the claimant was entitled at the dividend, together with such further proportion, (if any there arose,) the court shall thereupon give judgment, that the sum so brought in, deducting the costs sustained by the defendant, be paid to the plaintiff, and the said judgment shall be pleadable in bar to any action afterwards brought to recover the said debt; or, in