

with such further part as shall be due, on further money coming into hand, to the creditor on demand; and in case the 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 proportional part thereof, together with such further proportion as aforesaid of assets, and the claimant shall notwithstanding bring suit, the 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 case the administrator shall not tender as aforesaid before the suit brought, the creditor shall recover no more than the proportionable part due at the time of the dividend and such further proportion as he was entitled to on the coming in of further assets, with interest on each to the time of judgment.

105. Executors and administrators shall have full power to commence and prosecute any personal action whatever at law or in equity, which the testator or intestate might have commenced and prosecuted, except actions of slander, and actions for injury done to the person, and they shall be liable to be sued in any court of law or equity, in any action (except as aforesaid) which might have been maintained against the deceased, and they shall be entitled to and answerable for costs in the same manner as the deceased would have been, and shall be allowed for the same in their accounts, if 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.

106. No creditor shall bring a suit upon an administration or testamentary bond for any debt or damages due from, or recovered against the decedent, before a non est on a summons is returned against the administrator or a fieri facias returned nulla bona by the sheriff of the county where the administration was granted or where the effects of such deceased lie, or such other apparent insolvency or insufficiency of the estate of such