

obtaining the said letters testamentary or of administration, and if the same shall be controverted, it shall be ascertained 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 sue the bond of such former executor or administrator.

249. The Orphans' Court may, in all cases of controversy therein, upon the application of either party, direct a plenary proceeding by bill or petition, to which there shall be an answer on oath; and if the party refuse to answer any matter alleged in the bill or petition proper for the court to decide upon, he may be attached, fined, and committed, or his property may be attached and sequestered.

250. On such plenary proceeding, all the depositions shall be taken in writing and recorded; and if either party require it, the court shall direct an issue or issues to be made up and sent to any court of law convenient for trying the same, and the issues shall be tried in the said court of law as soon as convenient, without any continuance longer than may be necessary to procure the attendance of witnesses; and the power of the court of law and the proceedings thereto relative, shall be as directed by law respecting the trial of issues; and the Orphans' Court shall give judgment or decree upon the bill and answer, or the bill, answer and depositions, or finding of the jury, and may in all cases of contest award costs in their discretion, and compel payment by attachment and fine, or by attachment and sequestration.

251. In all cases of plenary proceedings, or caveat filed in any of the Orphans' Courts of this State, where any motion or application to the court shall be made in writing, it shall be the duty of the court to reduce to writing, and sign the order or decree that may be made by them on such motion or application, and the said motion or application to the court, and the order or decree thereon, shall be filed as a part of the proceedings, and in case of appeal from the final decree of the Orphans' Court, be transmitted to the appellate court with the other proceedings, and be subject to the judgment and revision of such appellate court.