

in the same situation as others; therefore be it enacted, that an executor or administrator shall not be bound to take notice of or discover any judgment or decree against his or her deceased, but such judgment or decree creditor shall exhibit his claim in the same manner as other creditors, and in case the same shall not be exhibited, such claim shall be barred in the same manner as if it rested on bond or simple contract; provided that nothing herein contained shall extend or be construed to extend to deprive such creditor of the preference given by the original Act, in cases where the claim is in due time exhibited. The Act of 1823, ch. 131, sec. 2, provided, that where a claim shall be known to the executor, and the claimant shall neglect or refuse, or delay to bring it in legally authenticated after notice given, &c., and within the time limited, &c., such claimant shall be in the same situation to all intents and purposes, with regard to the claim, as those whose claims are unknown to the executor, &c.; see the Act of 1798, ch. 101, sub-ch. 8, sec. 13. And by sec. 117 of Art. 93<sup>2</sup> of the Code, it is provided, that no administrator shall be bound to take notice of **583** any claim against his decedent, unless the same shall be exhibited to such administrator legally authenticated; or unless such claim shall have been passed by the Orphans Court, and entered by the Register upon his docket, or unless a suit shall be pending against such administrator for such claim. Sec. 109<sup>3</sup> provides that in case all the assets have been paid away, delivered or distributed, and a claim shall be afterwards exhibited, of which the administrator has no notice by the exhibition of it legally authenticated, he shall not be answerable for it; and in case of suit against him, if he shew that he has paid away, &c., and the plaintiff cannot prove that the defendant had notice, &c. before such payment, &c., judgment shall not be given (though the amount of the claim against the deceased may be ascertained) until the plaintiff can shew further assets coming into the defendant's hands. If the plaintiff shew such notice of *the claim against the defendant (sic)*, judgment may be given for such sum as the plaintiff ought to have received at the dividend, and a *feri facias* may issue, &c., and further judgment be given on coming in of further assets. And sec. 110<sup>4</sup> provides, that no administrator, who shall after the lapse of

<sup>2</sup> Code 1911, Art. 93, sec. 116.

<sup>3</sup> Code 1911, Art. 93, sec. 108. It is the executor or administrator personally that is exonerated and discharged under this section and under sec. 117 on final administration of the assets, not the estate of the decedent, or those to whom it has been distributed. *Zollickoffer v. Seth*, 44 Md. 359. As to sec. 107, see *Coburn v. Harris*, 53 Md. 369; 58 Md. 103; also *Orendorff v. Utz*, 48 Md. 298; *Bradford v. Street*, 84 Md. 273; *Constable v. Camp*, 87 Md. 181.

Claims for taxes are not within the contemplation of secs. 108 or 116. The Orphans Courts have no power to pass on claims for taxes. It is the duty of an executor or administrator to ascertain and pay them. *Bona-partie v. State*, 63 Md. 465.

<sup>4</sup> Amended by the Act of 1882, ch. 125, so as to allow the administrator to distribute with safety after the expiration of the six months' notice.