

C H A P.
LXXX.

In payment of
debts, &c. no
preference to be
given, &c.

VII. AND BE IT ENACTED, That in the payment of the debts of deceased persons hereafter to be contracted, no creditor shall be entitled to any priority, except such as have judgment against the deceased, nor shall any preference be given to creditors in equal degree by the executor or administrator; and all Executors and administrators, in paying the debts of the deceased hereafter to be contracted, shall observe the following rules, where it is apprehended the deceased has not left personal estate sufficient to satisfy the debts due by him, to wit: To pay no debt until the end of twelve months after the death of the deceased, to advertise publicly in all places within this and the other United States where any creditor or creditors of the deceased is or are supposed to reside, for all creditors to appear on a certain day, within six weeks after the expiration of the twelve months aforesaid, and at a certain place to be mentioned in such advertisements, with their claims against the deceased properly authenticated, at which time, or as soon thereafter as can be, the executor or administrator shall first discharge all judgments against the deceased, if there be assets sufficient in his hands for this purpose, and if not, and there be more judgments than one, a proportionable division of the assets shall be made between the judgment creditors; and if there be no debts on judgment, or a surplus of assets after paying the judgment, then the executor or administrator shall divide the assets in his hands equally between all other creditors without priority or preference; and if the executor or administrator judges it reasonable to dispute or litigate any claim brought against such estate as aforesaid, he may retain in his hands assets sufficient to discharge the just proportion of such claim, upon a supposition it may be recovered, which assets, or a just proportion of them, shall be accounted for to the other creditors in case such claim or the whole shall not be recovered; and if assets shall come to the hands of the executor or administrator, after such first payment and division, such executor or administrator shall, by public advertisement as aforesaid, give notice of the same to the creditors within a reasonable time after the assets come to the hands of such executor or administrator, and shall pursue such rule of division among the creditors as is before directed, and so *tatis quoties* until the estate of the deceased is justly and fairly administered; and any person neglecting or refusing to bring in his claim according to notice aforesaid, shall have no right to claim from the executor or administrator any division of the assets aforesaid made at any time or times before such claim may be brought in, but such creditor, when his claim is brought in, shall have a right to a proportionable share in all divisions made after such claim is brought in; and if any executor or administrator shall not observe these rules and directions, such executor or administrator shall be liable to pay out of his own estate the loss sustained by any creditor in consequence of the neglect or breach of the said rules and directions; and in case there be not personal estate sufficient to pay the debts of the deceased, and he shall have left lands, tenements or hereditaments, to descend, or hath devised the same, and the heir or devisee may be liable to pay the debts of the deceased remaining unsatisfied as aforesaid, to the value of the lands, tenements or hereditaments, descended or devised, as the case may be, then such heir or devisee, being of full age, or upon arrival to the age of twenty-one years, shall pursue the rules and directions aforesaid in the payment and discharge of the debts of the deceased hereafter to be contracted, remaining unpaid as aforesaid, and upon default, such heir or devisee shall be liable to pay out of his own estate the loss sustained by any creditor by the misconduct of such heir or devisee in neglecting to observe the said rules and directions; and all courts of law and equity, in any judgment or decree hereafter to be given in cases aforesaid, shall observe the directions of this act.

The law respecting the estates of deceased persons, as contained in this and the two following sections, is materially altered by the act of 1798, ch. 101, for amending and reducing into system the laws and regulations concerning last wills and testaments, &c.

No profit shall
be made, &c.

VIII. AND BE IT ENACTED, That no profit shall be made, or any loss sustained, by any executor or administrator, in the increase or decrease of the estate of any deceased person under their care and management, but such executor or administrator shall account for such increase, and be allowed for such decrease, in the settlement of his account of the deceased's estate.

No guardian
shall profit or
lose, &c.

IX. AND BE IT ENACTED, That no guardian hereafter to be appointed to any minor shall profit by any increase, or lose by any decrease, of the estate of the minor under the care of such guardian; and all guardians shall hereafter annually settle an account of such estate with the orphans court of his county, in which the increase and profits of the estate shall be accounted for, or the loss and decrease shall be allowed, as the case may be, and a commission, not exceeding seven *per cent.* upon the whole annual produce of such estate, shall be allowed by the court to such guardian for his care and trouble in managing such estate; and in case the produce of the estate is not sufficient to maintain and educate the minor in a proper manner, and it shall appear to the orphans court aforesaid that it will be for the benefit and advantage of the orphan to apply some part of the principal of the personal estate to which he shall be entitled towards his education, it shall and may be lawful for the said court to allow the guardian to apply a part of the principal of such personal estate, not exceeding one