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or any thing relative to the assets, or for the plaintiff or plaintiffs to reply to such plea; provided nevertheless, that any executor or administrator, sued in chancery, may be compelled, as usual, to say in his answer, whether or not he hath assets to answer all just claims against the deceased; and provided also, that if the said executor or administrator shall answer that he hath not assets as aforesaid, the proceedings shall be as they are at present; that is to say, an account may be taken of the assets under the direction of the court.

8. And if the verdict of the jury on the issue joined be against the executor or administrator, or if he shall be willing to confess judgment, and the debt or damages which the deceased (if he or she were alive) ought to pay, be ascertained by verdict, or confession or otherwise, the court, before whom the action was brought, shall thereupon assess the sum which the executor or administrator ought to pay, regard being had to the amount of assets in his hands, and the debts due to other persons; and if it shall appear to the said court that there are assets to discharge all just claims against the deceased, the judgment shall be for the whole debt or damages found by the jury, or confessed, or otherwise ascertained, and costs; and if it shall appear to the court that there are not assets to discharge all such just claims, the judgment shall be for such sum only as bears a just proportion to the amount of the debt, or damages and costs, regard being had to the amount of all the just claims, and of the assets; that is to say, as the amount of all the said claims shall be to the assets, so shall the amount of the said debt, or damages and costs, be to the sum required, for which judgment is to be given.

9. And in no case shall the court proceed to assess as aforesaid, and to pass such judgment against an executor or administrator, until the time limited by law, or by the orphans court, for the executor or administrator to pass his account shall have expired; provided, that the said executor or administrator shall make oath, (or affirmation, as the case may require,) that he hath not assets to discharge all such just claims; and the account settled by the orphans court, in which the debt or damages sued for ought to be stated, shall be evidence to shew the amount of assets and claims; and the court before whom the suit is brought against the executor or administrator for the recovery of a debt or damages, shall have power, when the real debt or damages are ascertained, to refer the matter to an auditor, to ascertain the sum for which judgment shall be given; and in case the judgment shall be for a sum inferior to the real debt or damage and costs, it shall go on and say, "that the plaintiff be entitled to such further sum as the court shall hereafter assess on discovery of further assets in the hands of the defendant;" and the court, at any time afterwards, when applied to by the plaintiff, on three days notice to the defendant or his attorney, may assess and give judgment for such further proportionable sum as the plaintiff shall appear entitled to, regard being had as aforesaid to the amount of the debt, and other claims; and on any judgment passed as aforesaid, a *feri facias* may issue against the defendant, and either his own goods, or the goods of the deceased, may be thereon taken and sold; and it shall be the duty of the executor or administrator to discharge the said judgment, or put it on a footing with other just claims, and on failure his administration bond may be put in suit by the plaintiff.

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 case the executor or administrator shall not tender as aforesaid before the suit brought, the creditor shall recover no more than the proportionable