

CHAP.
CL

14. If the creditor be an executor or administrator, the claim shall not be received, although vouched or approved as aforesaid, unless he make oath or affirmation, to be certified as aforesaid, "that it does not appear from any book or writing of his testator, (or intestate,) that any part of the said claim hath been discharged, except what (if any) is credited, and that, to the best of the deponent's knowledge and belief, no part of the said claim hath been discharged, and no security or satisfaction hath been given for the same, except what (if any) is credited."

15. No executor or administrator shall be allowed in his account for any claim by him discharged, unless he produce the claim, passed by the orphans court, or proofs or vouchers as aforesaid.

CHAP. 10.

Directions concerning accounts and debts due to deceased persons.

1. IN the account of an executor or administrator shall be stated, on one side, the assets which have come to his hands, according to the inventory or inventories returned to the court, or received and appraised as herein before directed after the inventory or inventories returned, and the sales which have been made under the court's direction; that is to say, the inventory or inventories are to shew the articles of the estate, and the sales the amount of their value, where they have been sold, and for articles so sold he shall be charged the price, according to the return; and if any article hath been sold for credit, and not yet paid for, it shall be accounted for in a subsequent account.

2. On the other side shall be stated the disbursements by him made, viz. 1. Funeral expences, to be allowed, at the discretion of the court, according to the condition and circumstances of the deceased, not exceeding three hundred dollars. 2. The debts of the deceased, proved or passed as aforesaid, and paid or retained. 3. The allowance for things lost, or which have perished without the party's fault, which allowance shall be according to the appraisement. 4. His commission, which shall be, at the discretion of the court, not under five *per cent.* nor exceeding ten *per cent.* on the amount of the inventory or inventories, excluding what is lost or hath perished. 5. His allowance for costs, and for extraordinary expences, (not personal,) which the court may think proper to allow, laid out in the recovery or security of any part of the estate.

3. If the first account, to be returned as aforesaid, shall not shew the estate which was on hand to be fully administered, another account shall be returned within six months thereafter; and within every term of six months thereafter an account shall be returned, until the estate shall appear to be fully administered; and whenever a discovery or receipt of assets shall take place, after rendering an account, another account shall be rendered within six months thereafter; provided nevertheless, that an executor or administrator shall not be obliged to render accounts, when it appears to the court that the estate has been fully administered, except debts which the court shall set down and deem as desperate, unless the same shall afterwards be recovered.

4. The court shall examine every list of debts returned by an executor or administrator with the inventory, and for every debt which the court shall not mark as desperate, or improper to be put in suit, the executor or administrator shall commence a suit, unless the debt be paid within six months thereafter, or unless the debtor be out of the state, or unless the court shall think reasonable an excuse made within one month after the lapse of the said six months for not bringing suit; and on failure to bring suit as aforesaid, the party shall be liable to a suit on his administration bond, and to such damages as shall be found by the jury.

5. It is not the intent of this act that an executor or administrator be answerable, at all events, for a debt which he shall return sperate, but merely to enable the court, and all parties concerned, to form a just estimate of the circumstances of the deceased.

6. When it shall appear by the first, or other account of an executor or an administrator with the will annexed, that all the claims against, or debts of, the deceased, which have been known by or notified to the said executor or administrator, have been discharged, or retained for, or settled, it shall be his duty to deliver up the estate in his hands to those entitled, provided, that his duty and power with respect to future assets shall not cease; and after such delivery he shall not be liable for any debt afterwards notified to him, provided he shall have advertised, as herein before directed, unless assets shall afterwards come into his hands, which shall be answerable for such debts.

7. Whereas it often happens that an executor or administrator hath in his hands assets to a great amount, and there is no reason to apprehend that they will be nearly exhausted in payment of debts, and those entitled after payment of debts are in want of subsistence, or greatly straitened in their circumstances, in case any person so entitled shall apply, by petition, and satisfy the court that he or she is really in want of subsistence, or greatly straitened in circumstances, and that it probably will not require more than one half of the assets to discharge the debts, the court may direct the executor or administrator to deliver to the petitioner any part of what the court shall suppose will be the petitioner's distributive share, or any part of a legacy or bequest in money, not exceeding one third part, the said petitioner giving bond, with security, approved by the court, to the executor or administrator, for returning the same, or an equivalent, with interest, whenever so directed by the court;