

court; and the court shall have power to determine, in a summary manner, on any such petition, after a summons against such executor or administrator duly returned either summoned or *non est*.

8. And the court, in like manner, on any petition by a person in such circumstances, to whom a specific legacy or bequest hath been made, being satisfied that the assets, exclusive of all specific legacies, will not nearly be exhausted by debts; may direct the executor or administrator to deliver to the petitioner the said specific legacy or bequest, on his or her giving bond as aforesaid.

9. If an executor or administrator shall fail to return an account as herein before directed within the time limited by law, or by the court, his letters, on application of any person interested, may be revoked, and such administration, (as the case may require,) may be granted at discretion of the court; and the administrator, to whom letters shall be granted, shall be entitled to put the delinquent's bond in suit, and to recover such damages thereon as the jury may find; and in assessing such damage it shall be the duty of the jury to allow such sum as will be equal to six *per cent. per annum* on the amount of the inventory or inventories from the time of the return or returns to the time of the verdict, over and beyond the damages, for such loss or injury as the estate may have sustained by the delinquent's conduct.

10. Whenever it shall appear by the first or other account of an administrator, that all the debts of, or claims against, the estate, known by or notified to him, have been discharged or allowed for in his account, it shall be his duty to deliver up and distribute the surplus or residue of the estate as hereafter directed, provided that his power and duty, with respect to future assets, shall not cease; and after such delivery, the administrator shall not be answerable 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 liable for such debts.

11. If by the provisions in a will it shall be necessary for an executor, or for an administrator with a copy of the will annexed, to retain in his hands the personal estate, or a part thereof, after all just claims are discharged, as where money, or some other thing is directed to be paid at a distant period, or upon a contingency, the court of chancery or the orphans court shall have power, on the application of such executor or administrator, or of a party interested, to decree or give directions relative thereto; and it shall be the duty of such executor or administrator, to apply to the court of chancery or the orphan's court, and the said courts respectively shall have full power to decree or direct what part of the personal estate shall be retained or appropriated for the purpose, and in what manner it shall be disposed of, and the legacy or benefit intended by the will shall be secured for the person to be entitled at a future period, or contingency, and how the necessary part of the personal estate, to be appropriated for the purpose, shall be prevented from lying dead, or being unproductive, and how it shall be applied, agreeably to the intent of the will, or the construction of law, in case the contingency shall not take place.

WHEN all the debts of an intestate, exhibited and proved, or notified and not barred, shall have been discharged, or settled and allowed to be retained, as herein directed, the administrator shall proceed to make distribution of the surplus as follows.

CHAP. II.  
Distribution of  
an intestate's  
personal estate.

1. If the intestate leave a widow, and no child, parent, grand-child, brother or sister, or the child of a brother or sister of the said intestate, the said widow shall be entitled to the whole.

2. If there be a widow, and a child or children, or a descendant or descendants from a child, the widow shall have one third only.

3. If there be a widow, and no child, or descendants of the intestate, but the said intestate shall leave a father, or mother, or brother or sister, or child of a brother or sister, the widow shall have one half.

4. The surplus, exclusive of the widow's share, or the whole surplus, (if there be no widow,) shall go as follows.

5. If there be children, and no other descendant, the surplus shall be divided equally amongst them.

6. If there be a child or children, and a child or children of a deceased child, the child or children of such deceased child shall take such share as his, her or their deceased parent, would (if alive) be entitled to; and every other descendant or other descendants, in existence at the death of the intestate, shall stand in the place of his, her or their deceased ancestor; provided, that if any child, or descendant, shall have been advanced by the intestate, by settlement or portion, the same shall be reckoned in the surplus, and if it be equal, or superior to a share, such child or descendant shall be excluded, but the widow shall have no advantage by bringing such advancement into reckoning; and maintenance, or education, or money given without a view to a portion or settlement in life, shall not be deemed advancement; and in all cases those in equal degree, claiming in the place of an ancestor, shall take equal shares.

7. If there be a father, and no child or descendant, the father shall have the whole.

8. If