

# TESTAMENTARY SYSTEM.

person who is not a citizen of the United States; and any question respecting infamy, soundness of mind, or citizenship, may be heard and established as if the same respected a person named as an executor.

2. Whenever any person hath died intestate, leaving in this state goods, chattels, or personal estate, letters of administration may forthwith be granted by the orphans court of the county wherein was the party's mansion-house or residence, or in case he or she had no mansion or residence within the state, letters shall be granted in the county where the party died; and in case the party neither had mansion or residence, nor died within the state, letters may be granted in the county wherein lies, or is supposed to lie, a considerable part of the party's personal estate.

3. It shall be incumbent on any person applying for such letters to prove such dying intestate to the satisfaction of the court, unless the same be notorious; and the court may examine such person, on oath or affirmation, touching the time, place, and manner of the death, and whether or not the party dying left any will; and if such dying intestate be not proved to the satisfaction of the court, no letters of administration shall be granted.

No such letters shall be granted until at least twenty days after the death of the supposed intestate, and at least seven days after application for the same.

4. If such letters shall be granted, and a will for disposing of the personal estate of the deceased shall afterwards be proved according to law, and an executor or executrix, or executors, named therein, shall apply for letters testamentary within thirty days thereafter, and shall be capable of the same, and shall execute a bond as aforesaid, letters testamentary shall be accordingly granted, and the same shall be construed as a revocation of the letters of administration; provided nevertheless, that all acts done by any administrator or administratrix according to law, before any actual or implied revocation of the letters of administration, shall be valid and effectual; and provided, that the executor, executrix or executors, so obtaining letters testamentary, shall thereby be authorized to prosecute any actions at law or equity, commenced by the administrator, administratrix or administrators, and to obtain judgment in his, her or their own names, and likewise to defend any suit, as aforesaid, commenced against the said administrator, administratrix or administrators; and the granting letters testamentary in such case shall not be construed to affect any suit, as aforesaid, commenced against the administrator, administratrix or administrators, but the plaintiff or plaintiffs shall be allowed to prosecute the same unto judgment; nor shall the granting such letters testamentary be construed to affect any suit brought by the administrator, administratrix or administrators, but the same shall be prosecuted unto judgment, unless the executor, executrix or executors, shall come into court, and pray that the same be struck off, or discontinued; and the executor, executrix or executors, shall have the benefit of all judgments obtained by the administrator, administratrix or administrators, and shall be bound by all judgments obtained against them, unless the same shall be shewn to have been obtained by fraud; and with respect to the allowance of costs, all administrators shall be on the same footing as if letters testamentary had not been granted.

5. And in all cases where letters testamentary shall be granted as aforesaid, it shall be the duty of the administrators to exhibit to the orphans court their accounts, without delay, and to deliver to the executor, on demand, all the goods, chattels and personal estate, in their possession, belonging to the deceased; and on failure, their administration bonds shall be liable to be put in suit by the executors, or the executors may obtain an order for the purpose.

6. In case any executor, executrix, administrator or administratrix, shall die before the estate shall be fully administered, letters of administration *de bonis non* shall be granted to the person entitled agreeably to the rules herein before laid down, and the proceedings shall in all respects be the same as if administration had