

# TESTAMENTARY SYSTEM.

9. Provided nevertheless, that it shall not be considered as the duty of an executor or administrator to avail himself of the act of limitation to bar what he supposes to be a just claim, but the same shall be left to his honesty and discretion, it not being the intent of this legislature, that the party should reject an equitable claim, or that the orphans court may not pass any claim which appears just, or concerning which there is no real doubt or contest.

10. If the claim arises on a bond, note, or bill of exchange, or account for dealing with a factor, and the principal be not within the state, the factor who took the said bond, or note or bill, or who sold or delivered the articles in the account, may make oath, or affirmation, to be certified as aforesaid, and endorsed on a statement of the money thereon due, "that the said statement is full, just and true, and that he (the deponent) took the said bond, (or note or bill, or delivered the articles charged in the account,) as factor to ———, living, in (or lately of) ———; that neither he (the deponent) nor the principal, nor any other person for him, or the principal to his knowledge or belief, hath received any part of the money originally due on such bond, note, bill or account, or any security or satisfaction for the same, except what (if any) is credited."

And the said oath, or affirmation, with the other respective vouchers and proofs aforesaid, shall authorize the executor or administrator in making payment or distribution.

11. If the factor aforesaid be dead, or out of the state, and the principal be also out of the state, and it shall appear (in case of account) that the same hath been regularly proved according to the act of 1785 aforesaid, an oath (or affirmation) of any other factor, made after the death of the testator or intestate, and certified and endorsed on the statement as aforesaid, "that the said bond, note, bill or account, came into his hands as factor for ———, the creditor, residing in ———, after the death (or removal) of ———, the factor who took the said bond, (or note or bill, or delivered the articles in the account,) that he hath reason to believe, and does believe, that the said statement is full, just and true, and that no part of the money originally due on such bond, (note, bill, or account,) or any security or satisfaction for the same, hath been received, except what (if any) is credited."

And the said oath, or affirmation, with the other respective vouchers or proofs as aforesaid, shall be sufficient to authorize the executors as aforesaid.

12. When any affidavit or depositions to prove claims shall have been taken out of the state, the same shall be good, if taken and certified as aforesaid by the notary of the place, or by some person there authorized to administer an oath, and certified to be such under the seal of the governor, mayor or chief magistrate, or notary public of such place, and the said oath, affirmation or deposition, shall be as available as if taken before a justice within the state.

13. Provided nevertheless, that no executor or administrator shall be obliged to discharge any claim, of which vouchers and proofs shall be exhibited as aforesaid, but may reject, and at law dispute the same, in case he shall have reason to believe that the deceased never owed the debt, or had discharged the same, or a part thereof, or had a claim in bar; but every executor or administrator shall be obliged to discharge the same, or pay a just proportionable part thereof, if passed by the orphans court granting his letters, unless he shall appeal from the decision of the court in the manner hereafter directed.

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, charged,