

# TESTAMENTARY SYSTEM.

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.

## C H A P. XII.

### *Heirs and devisees, how to be proceeded against.*

1. **W**HENEVER land hath descended, or shall descend, or hath or shall come by devise, to a person or persons of full age, and the personal estate of the deceased shall be insufficient to discharge his just debts, the court of chancery shall have power, on a bill filed by any creditor or creditors within three years from the death of the ancestor or testator, to proceed in the same manner as if such heir or devisee were under the age of twenty-one years; and if any such heir or devisee shall, by petition, apply to the said court to direct a sale of the land for the payment of the just debts of the deceased, the court shall have authority to direct a sale; and there shall be the same proceedings for obtaining a decree, so far as they will apply, in all respects, as if the land had descended or been devised to an infant; provided nevertheless, that in all cases where application shall be made as aforesaid by a creditor, heir or devisee, the court shall limit a time, not less than nine, nor more than fifteen months, for claims against the deceased, with the vouchers and proofs thereof, to be exhibited; and not less than six months notice of such limitation shall be given by advertisement, in some principal news-paper of Annapolis and Baltimore-town; and the court may, at discretion, direct a sale of the whole, or such part of the land, or to such amount, as shall to the court appear necessary; and the net proceeds of the sale, after deducting costs and commission, may, immediately after the limitation, be applied to the discharge of the just claims against the deceased, exhibited within the time limited, and established to the satisfaction of the court, or of a proportionable part thereof, according to the rules herein laid down for the application of personal assets; provided nevertheless, that any claim exhibited and established before actual distribution shall have taken place, shall be admitted to a proportionable share; and if there shall be any surplus, after discharging all just claims established as aforesaid, the same shall be paid to the heir or heirs, devisee or devisees, according to his, her or their right in the land; and in case the said notice shall have been given in some principal news-paper of Philadelphia, New-York, and at the seat of the federal government, the said heir or heirs, devisee or devisees, shall have the said surplus, together with any residue of the land unfold, free, clear, and discharged from all claims against the deceased; but if the said notice shall not have been given in all the papers aforesaid, any heir or devisee shall be answerable, to the amount of the surplus to him or her paid, or the residue of the land unfold, for any just claim against the deceased, exhibited to the said court within three years after the death of the ancestor or testator, or after the passage of this act, and established to the satisfaction of the chancellor.

The notice to be given shall be as follows, or to the following effect:

“ This is to give notice, that the real estate of \_\_\_\_\_, late of \_\_\_\_\_, in Maryland, deceased, is about to be sold, under a decree of the court of chancery, for the payment of his (or her) just debts; all persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers and proofs thereof, to the chancellor, before the \_\_\_\_\_ day of \_\_\_\_\_; they may otherwise be precluded from all benefit of the said estate.

“ By order of the Chancellor.

“ Test.

\_\_\_\_\_, Reg. Cur. Can.”

2. If any heir or devisee, on the application of a creditor or creditors as aforesaid to the court of chancery, shall discharge the claim or claims exhibited and proved by such creditor or creditors, or obtain the consent of such creditor or creditors