

TESTAMENTARY SYSTEM.

5. If the will of the husband devise a part of both real and personal estate, she shall renounce the whole, or be otherwise barred of her right to both real and personal estate.

6. If the will devise only a part of the real estate, or only a part of the personal estate, the devise shall bar her of only the real, or personal estate, as the case may require; provided nevertheless, that if the devise of either real or personal estate, or of both, shall be expressly in lieu of her legal share of one or both, she shall accordingly be barred, unless she renounce as aforesaid.

7. But if, in effect, nothing shall pass by such devise, she shall not be thereby barred, whether she shall or shall not renounce as aforesaid, it being the intent of this act, and consonant to justice, that a widow accepting, or abiding by a devise, in lieu of her legal right, shall be considered as a purchaser with a fair consideration.

8. If a widow commit waste in the lands of the deceased, she shall be liable to an action by the heir or devisee, or his or her guardian; and if she marry a second husband, he shall be answerable for any waste committed by her before marriage, or by himself.

9. A widow's remedy for dower shall be as heretofore.

C H A P. XVI.

Appendix, containing rules omitted under their proper heads.

1. **I**F any person entitled to administration shall deliver, or transmit to the orphans court, a declaration, in writing, that he is willing to decline the trust, the court shall proceed as if such person were not entitled.

2. If an executor or administrator shall die before administration is completed, letters *de bonis non* may be granted, at the discretion of the court, with a copy of the will annexed, (if the case require,) giving preference, however, to the person entitled, if he or she shall actually apply for the same; and the form of the letters shall be as herein before directed, except that the words "already not administered," be added in their proper place; and the authority conferred by such letters shall be to administer all things herein described as assets, not converted into money, and not distributed, or delivered or retained by the former executor or administrator, under the court's direction.

3. A common warrant for land not executed or located in the life-time of the deceased, shall be assets after his death, in the hands of an executor or administrator, and subject to distribution, as well as every debt due to, or just claim of, the deceased; and if a common warrant for land be executed or located as aforesaid, it shall be considered as the property of the heirs.

4. No personal action shall abate by the death of either party, but executors and administrators shall notice and conform to the directions of the act of 1785, ch. 80, respecting their prosecution or defence of such action.

5. If any thing be bequeathed to an executor, by way of compensation, no allowance of commission shall be made, unless the said compensation shall appear to the court to be insufficient, and if so, it shall be reckoned in the commission to be allowed by the court.

6. No executor shall be obliged to exhibit any inventory, or account, provided he will give bond, instead of the bond herein before directed, with such security, and in such penalty, as the court shall approve, to the state of Maryland, to be recorded and sued as before directed, with condition "for paying all just debts of, and claims against, the deceased, and all damages which shall be recovered against him as executor, and also all legacies bequeathed by the will;" provided