

TESTAMENTARY SYSTEM.

vided the said executor be residuary legatee, or provided the residuary legatee, of full age, or his or her guardian, in case of his or her non-age, shall notify his or her consent to the court; and in case such bond be given by an executor, he shall be answerable for all debts, claims and damages, recovered against him as executor; and if suit be brought against him as executor, the judgment shall be for the whole sum found by the jury, or otherwise ascertained, and execution may issue, and have effect, as if he were sued in his own right; and any legatee shall be entitled to recover the full amount of his legacy, either in a suit upon the said executor's bond, or in a suit in chancery, as is usual in the case of legacies, or in an action on the case, in which the giving of such bond shall be considered as an assent to the legacy.

7. No administrator, entitled to the whole residue after payment of debts of, and claims against, the intestate, shall be obliged to return an inventory or account, provided he will give bond with such security, and in such penalty, as the court shall approve, conditioned for paying all debts, claims and damages, which shall be recovered against him, as administrator; and in case he shall give such bond, he shall be answerable for all debts, claims and damages aforesaid, and judgment may be given, and execution may issue and have effect, as herein directed with respect to an executor giving a similar bond.

8. The rules and regulations herein contained, relative to last wills and codicils, shall be construed to extend to all cases where the testator or testatrix shall die after the time when the operation of this act shall commence, without regard to the time of making the will or codicil.

9. Forasmuch as it is the intent of the law now in force, as well as of this act, that executors and administrators should suffer no loss from the decrease of the estate, and make no gain from the increase, and that, when necessary for paying debts, a sale shall take place, and the said executor or administrator be accountable for the amount of the sales, in every case where letters testamentary or of administration have already been granted, and the administration hath not been completed, or a final account passed, the rules herein before laid down, relative to the duties and powers of executors and administrators, and the remedies against them, shall govern and prevail with respect to such part of the administration as shall remain incomplete at the time when the operation of this act is to commence; provided nevertheless, that this act shall not be construed to deprive any executor or administrator of any right which accrued to him by entering on his trust, or to exempt any executor or administrator from any remedy or proceeding against him, which any person is or shall be entitled to on account of his not having observed the directions of the law now in force.

10. All rules herein contained, relative to an executor or administrator, shall apply and extend to an executrix or administratrix, or executors or administrators, respectively, unless otherwise expressly provided for; and whenever any party in the singular number, or a male party, is mentioned, the rule shall apply to a female, or to two or more having a joint interest, or jointly concerned, applying or called upon, so far as the rule can with propriety apply, or so far as is not otherwise directed.

11. If any security of an executor or administrator shall conceive him or herself in danger of suffering from the suretyship, he may apply to the orphans court which granted the administration, and the said court may call upon the party to give counter security, to be approved by the court; and if the party so called on shall not, within a fixed reasonable time, give such counter security, the court may order the property remaining in the hands of such executor or administrator to be delivered up to such security, and the court may enforce the delivery, by process, as hereafter directed; and an inventory of the property delivered to such security shall be returned without delay, and the property contained in such inventory shall be by the said security sold, distributed and delivered up, as the case may require, under the immediate order of the court,