

# TESTAMENTARY SYSTEM.

as if such security were executor or administrator; but in as much as it would be inconvenient to creditors, and others, interested in the estate, if there should be a double administration, the executor or administrator shall go on to discharge his trust, unless the court revoke his letters for some just cause, as herein before directed, and he shall be answerable for the property, in the same manner as if it were not on his default as aforesaid, delivered to the security, and he shall be entitled to sue the said security, in a special action on the case, grounded on this act, and recover damages, with double costs, in case he shall suffer from the misconduct of such security, in diminishing any part of the property, without obtaining an allowance for the same from the court; and the said security shall bring into court, to be deposited with the register of wills, the money arising from the sale of any property as aforesaid, to be applied according to the meaning of this act.

12. Any executor or administrator shall be entitled to appoint a meeting of creditors, or of persons entitled to distributive shares or legacies, or a residue, on some day by the court approved, and passage of claims, payment or distribution, may be there made, under the court's direction and control; and if any person entitled to receive money shall not attend in person, or by agent or attorney authorized to receive his part, the money to which such person shall be entitled may be deposited with the register of wills, to be paid to such person, or his or her order, and such deposit, so far as it shall amount, shall discharge such executor or administrator.

13. And for all money deposited with the said register under this act, the register shall be answerable, in the same manner as the treasurers of the state are answerable for public money deposited in the treasury, and his office bond shall be answerable for the same; and for his risk and trouble he shall be entitled to retain, of every sum so deposited, at the rate of one and a half *per cent.* on the amount.

## C H A P. XVII.

### *Orphans court and register of wills.*

1. **T**HE governor, by and with the advice and consent of the council, shall have authority to appoint and commission three men of integrity and judgment in each county of the state, to be justices of the orphans court in such county, for the purpose of taking the probat of wills, granting letters testamentary and of administration, directing the conduct and settling the accounts of executors and administrators, securing the rights of legatees, superintending the distribution of the estates of intestates, securing the rights of orphans and legatees, and administering justice in all matters relative to the affairs of deceased persons, according to law.

2. The form of the commission shall be as follows:

“The state of Maryland, to A. B. C. D. and E. F. of \_\_\_\_\_ county, gentlemen, greeting. Be it known, that reposing great trust and confidence in your judgment, integrity, and love of justice, we hereby appoint you justices, and each of you a justice, of the orphans court for \_\_\_\_\_ county, to do equal right and justice, according to the law of this state, in every case in which you shall act under this commission, freely without sale, fully without denial, and speedily without delay; and you, or any two of you, are appointed and authorized to execute the powers of the said orphans court, honestly and faithfully accordingly, according to law, until you shall be duly discharged from your said office.

“Given under the seal of the state of Maryland, this \_\_\_\_\_ day of \_\_\_\_\_.

“Witness

\_\_\_\_\_ Chancellor.”

3. Each of the persons named in such commission shall be entitled to hold and exercise his office until a new commission as aforesaid, in which his name shall not be included, shall be produced, and opened in the court of which he is a justice.

4. Every