

L A W S
OF THE
INDIANA TERRITORY.

An act authorising the granting of letters Testamentary, and letters of Administration, for the settlement of intestate's estates, and for other purposes.

§ 1. THE Clerks of the courts of Common Pleas, of each county in this Territory, shall take proofs of last wills and testaments, and grant letters of testamentary, and letters of administration: *Provided however*, That the said letters testamentary, and letters of administration, granted by such Clerk in the vacation, may be repealed by sentence of the court of Common Pleas for the county at their term, next after the granting of such letters, and other letters may, by the same court, be granted to any person applying therefor, and having legal right thereto, in which cases, all acts and proceedings, done and made, by the former executor or administrator, shall be legal and valid, and such further proceedings may be had and made, in the name or names of the succeeding executor or administrator, as though the original suits, or proofs had been commenced in his, her or their name or names.

§ 2. The said Clerks shall record last wills and testaments, and make entries of the granting of letters testamentary, and letters of administration, and shall receive, put on file, and carefully preserve all bonds, inventories, accounts, and other documents necessary to be perpetuated in their office.

§ 3. All bonds that under, or by authority of this law, are directed to be taken, shall be made to the Judges of the respective courts of Common Pleas.

§ 4. The courts of Common Pleas of each county of this Territory, shall have full power to award process, and cause to come before them, all, and every such person and persons, who, as guardians, trustees, tutors, executors, administrators, or otherwise, are, or shall be intrusted with, or in any wise accountable for any lands, tenements, goods, chattels or estates, belonging, or which shall belong, to any orphan, or person under age, and cause them to make and exhibit, within a reasonable time, true and perfect inventories and accounts of the said estates.

§ 5. When any complaint is made to the said court, that an executrix, having minors of her own, or being concerned for others, is married, or likely to be espoused to another husband, without securing the minors portions, or estates, or that an executor, or other person, having the care and trust of minors estates, is likely to prove insolvent, or shall refuse, or neglect to exhibit, true and perfect inventories, or give full and just accounts of the said estates, come to their hands or knowledge, then, and in every such case, the said court is hereby required to call all, and every such executors and trustees, and also such guardians and tutors of orphans or minors, as have been formerly appointed, or shall at any time hereafter be appointed, to give security to the orphans or minors, by mortgage or bond, in such sums, and with such securities, as the said court shall think reasonable, conditioned for the performance of their respective trusts, and for the true payment and delivery, to, and for the use and behoof of such orphans as they are concerned for, or such as shall legally represent them, the legacies, portions, shares and dividends of estates, real and personal, belonging to such orphans or minors, so far as they have effect; as also

for their maintenance and education, as the said court shall think fit to order, for the benefit and best advantage of such orphans, as is usual in such cases.

§ 6. Any of the said executors, administrators, guardians, or trustees, may, by the leave, and direction of the said court, put out their minors money to interest, upon such security as the court shall allow of; and if such security to taken, *bona fide*, and without fraud, shall happen to prove insufficient, it shall be the minor's loss. But if no person who may be willing to take the said money at interest, with such security, as can be found by the person, so as aforesaid, concerned for the minors, nor by any others, then the said executors, administrators, guardians or trustees, shall in such case be responsible for the principal money only, until it can be put out at interest, as aforesaid.

§ 7. *Provided always*, That the day of payment of the money, so to be put out to interest, at any one time, shall not exceed twelve months, from the date of the obligation, or other security taken for the same, and so *totes quoties*, when and so often as the said money shall be paid in, or come to the hands of the said executors, guardians or trustees.

§ 8. *Provided also*, That no executors, administrators or guardians, shall be liable to pay interest, for the surplusage of the decedent's estate, remaining in their hands or power, and belonging to the minors, when the accounts of their administration are, or aught to be settled, and adjusted before the said courts.

§ 9. The said courts shall have full power authority, to admit orphans or minors, when, and as often as there may be occasion, to make choice of guardians, or tutors, and to appoint guardians, next friends, or tutors, over such as the said court shall judge too young, or incapable, according to the rules of the common law, to make choice themselves, and at the instance and request of the said executors, administrators, guardians or tutors, to order and direct the binding, or putting out of minors, apprentices to trades, husbandry, or other employments, as shall be thought fit. And all guardians and *prochein amis*, who shall be appointed, by any of the said courts, shall be allowed and received, without further admittance, to prosecute and defend all actions and suits, relating to the orphans or minors, as the case may require, in any court or courts of this Territory.

§ 10. If any person or persons, being duly summoned to appear in any of the said courts of Common Pleas, relating to any matter or thing, by this law made cognizable in the said court, ten days before the time appointed for their appearance, shall make default, the said courts may send their attachment, for contempts, and force obedience to their warrants, sentences and orders, concerning any matters or things, cognizable in the same courts, by imprisonment of body, or sequestration of lands or goods.

§ 11. *Provided always*, That if any person or persons, shall be aggrieved, by any definitive sentence, or judgment of the said court, it shall be lawful for them to appeal from the same, to the General, or Circuit courts, which appeal, upon security given, as is usual in such cases, shall be granted accordingly.

§ 12. If any of the said executors, administrators, guardians, or trustees, did, or shall receive and give discharges, for any sums of money, debts, rents, or duties, belonging to any orphan or minor, for whom they are, or were interested, it is hereby declared, that all such discharges, or receipts, shall be binding, to, and upon the orphan or

minor, when he, or she, attains to full age, and shall be effectual in law, to discharge the person or persons that take the same.

§ 13. When any of the said minors attain to the full age, and the person or persons, so, as aforesaid, interested or concerned for them, having rendered their accounts to the court of Common Pleas, according to law, and paid the minors their full due, then such minors shall acknowledge satisfaction in the said court; but in case any of them refuse so to do, then the said court shall certify how the said persons concerned have accounted and paid, which shall be a sufficient discharge to the guardians or tutors, and to the trustees, executors or administrators, who shall so account and pay, and thereupon all bonds entered into, for payment of such orphans portions, shall be delivered up and cancelled.

§ 14. *Provided always*, That none of the said courts of Common Pleas, shall have any power to order or commit the tuition or guardianship of any orphans or minors, or bind them apprentices, to any person or persons, whose religious persuasion shall be different from what the parents of such orphan or minor professed, at the time of their decease; or against the minors own mind, or inclination, so far as he or she has discretion and capacity to express or signify the same; or to persons that are not of good repute, where others of good credit, and of the same persuasion may, or can be found.

§ 15. *Provided also*, That the said courts of Common Pleas, and all others concerned in the execution of this law, shall have due regard to the direction of all last wills, and to the true intent and meaning of the testators, in all matters and things that shall be brought before them concerning the same.

§ 16. All such bonds or obligations, as are by this, or any other law of the Territory, directed, or required to be given to the said courts, relating to minors, or decedents estates, and all such bonds as by any law are directed to be given by any Judge or other officers or persons in office, for the due execution of his or their respective offices or employments, are hereby declared to be to, and for the use of, and in trust for, the person or persons concerned; and the benefit thereof shall be extended, from time to time, for the relief and advantage of the party grieved, by the misfeasance, or nonfeasance of the officers that did, or shall give the same.

§ 17. And when any of the said bonds shall be put in suit, and judgment thereupon obtained, the judgment shall remain in the same nature the bonds were; and no execution shall issue thereupon, before the party grieved shall, by writ of *scire facias*, summon the person or persons against whom the said judgment is obtained, to appear and shew cause, why execution shall not issue upon the said judgment. And if the party grieved shall prove what damages he sustained, and thereupon a verdict be found for him, the court where such suit is, shall award execution for so much as the jury shall then find, with costs, and no more—and the former judgment is hereby declared still to remain cautionary, for the satisfaction of such others as shall legally prove themselves damaged, and recover their damages in manner aforesaid.

WANTED IMMEDIATELY
AN APPRENTICE
AT THIS OFFICE.

FROM THE PRESS OF
STOUT & JENNINGS,
PRINTERS TO THE
INDIANA TERRITORY.