

10 ADMINISTRATION.

A residuary legatee to be preferred, in some instances.

executor refuses to act, or dies intestate, and there is a residuary legatee, who, being entitled to what remains after debts and legacies paid, such residuary legatee hath the best title to the administration; for this appointment of a residuary legatee takes away the presumption of the statute, that the testator would have given it to the next of kin. 1 Vent. 217. But whether in such case, a widow ought to be excluded in Maryland, where, by the laws or established practice, she is entitled to a third part of the personal estate, after payments of debts, notwithstanding a residuary legatee is appointed, may admit of doubt.

Inasmuch as, by the statute, administration is to be granted to the widow, or next of kin, who are next of kin will be more fully treated of, under the title of *Distribution*; which see.

When administration is to be granted, to prevent wills from being secreted, and administration fraudulently obtained, the person or persons having a right, and claiming the same, are compelled to take the following oath, viz.

Oath of no will.

You N. N. make oath on the holy evangelists of almighty God, that you do not know, or have heard of any will made by the deceased. So help you God.

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