

TESTAMENTARY SYSTEM.

the person so offending shall be sentenced to the pillory, and such fine and imprisonment as the court shall think proper to impose.

5. It shall be lawful for any private person, in whose possession or custody a will or codicil shall be, after the death of the testator or testatrix, to open and read the same in the presence of any near relatives of the deceased, who may conveniently have notice thereof, and of other persons, and immediately thereafter to deliver the said will or codicil to the register of wills, or the register or clerk of any office in the county authorised to record wills, whose duty it shall be to keep the same safe, until proceedings may be had for proving the same in the said office, or until it be demanded by an executor, or other person authorised to demand it, for the purpose of having it proved according to law.

6. If any private person, in whose possession or custody a will or codicil shall be, after the death of the testator or testatrix shall neglect to deliver the same to the register of wills, or the register or clerk of any office proper for recording wills in the county where the said person resides, or where it is proper to prove the same, or to some executor named in the will, for the space of three calendar months after the death of the testator or testatrix shall be known to the said person, he or she thus offending shall be subject, on conviction in a court of law, to such fine as the court shall think proper, not exceeding five hundred pounds.

7. If any will or codicil delivered to the register of, or clerk of, any office proper for recording of wills, shall contain no disposition of goods, chattels or personal estate, or of any other thing except lands, tenements or incorporeal hereditaments, within this state, and the same shall appear to be signed, or sealed or acknowledged by the testator or testatrix, and attested and subscribed by three witnesses, it shall be recorded by the register, or officer aforesaid, and the original shall be by him safely kept until the legal execution thereof shall be controverted in some court of law, in which case it shall be transmitted to the said court of law, if required by some person authorised by the said court to receive it; and until the legal execution thereof shall be controverted in some court of law, a copy thereof, attested under the seal of office, shall be received as evidence in any court of law or equity, to prove the title of any person claiming under it, so far as the provisions thereof can operate according to law, and an attested copy, under the seal of office, of any other will, testament or codicil, recorded in any office authorised to record the same, shall be admitted as evidence in any court of law or equity, provided that the execution of the original will or codicil be subject to be contested until a probat hath been had according to this act.

8. If any person mentioned in a will or codicil containing any devise of any interest in land or tenements as a legatee, devisee, executor or trustee, shall be a subscribing witness thereto, and there shall not be three other subscribing credible witnesses, and the said will shall not have been deposited, kept and authenticated, as herein before directed, so as to give it validity, without resorting to the testimony of the subscribing witnesses, the said will or codicil, so far only as it respects the said legatee, devisee, executor or trustee, shall be void, and the testimony of the said legatee, devisee, executor or trustee, shall be as good and available to prove the said will or codicil, as if he or she had not been mentioned in the will; and in all cases, where a will or codicil cannot be proved agreeably to law, so as to give it complete validity and effect, according to the nature of its provisions, without resorting to the testimony of such legatee, devisee, executor or trustee, the said will or codicil, so far as it respects the said legatee, devisee, executor or trustee, shall be void, and his or her testimony shall be good and available as aforesaid.

9. If any subscribing witness to a will or codicil shall die before the testator or testatrix, or before the examinations of other witnesses, or before the time of proceeding to a probat of the said will or codicil, proof of his or her hand writing