certainty the altered position of the personal representative under it. A brief consideration of these cases will shew that the act does not strew roses in his path.

The act does not, as has been contended, apply simply to administration by the Court of Chancery. It includes the ordinary course of administration *sine lite* (*Bank of B. N. A.* v. *Mallory*, 17 Grant 102), and it is at once obvious that the responsibilities of the person administering are increased; so much so, that the Chancellor in the case just cited said, "It would be the duty of the personal representative—it would at any rate be prudent in him for his own protection—except in a very simple case, to act under section 27," which is the section enabling the representative to protect himself by giving such notices to creditors as the Court of Chancery would give.

The same case points out how the privileges of the representative are diminished by the destruction of the right of retainer, or at least the right to retain more than a proportionate part of his own debt, taking into consideration the claims of other creditors.

The dangers of inaccurate pleading are not lessened by the provision in question, and the mode of defence to be pursued in order to protect the representative from personal liability will apparently be even a more anxious matter than formerly. The question is touched upon in *Doner* v. *Ross*, 19 Grant 229, where the Court says: "Before the passing of the act, its effect (*i.e.* of judgment by default) was an admission of the debt, and that the executor had sufficient assets to satisfy the plaintiff's debt. Since the act it is of course still an admission of the debt; and if still an admission of assets to satisfy the plaintiff's debt, it must impliedly be an admission of more than was admitted in the former state of the law, for the executor has not sufficient assets to satisfy the plaintiff's debt since the passing of the act, unless he has sufficient to satisfy all the debts of the testator, inasmuch as all are to be paid *pro rata*. . . The act may make his position more difficult, for he might feel safe in allowing judgment to go by default before the act, as the payment of the debt of the particular creditor, if not out of its order, would acquit him of assets *pro tanto*, while its effect under the new act may fix him with liability for any excess beyond a rateable proportion. He may probably now have to plead a deficiency of assets to pay all debts, or come to this court for administration in cases where, before the act, he would have allowed judgment to go by default."

In this case a creditor was not restrained from proceeding on his writ *de bonis testatoris et si non*, &c., issued on judgment by default against the executor and returned *nulla bona*, although the executor had instituted administration proceedings in Chancery.

The latest case on the subject is *Taylor* v. *Brodie*, 21 Grant 607, where Vice-Chancellor Blake confirms the dictum in *Doner* v. *Ross* as to the proper plea of an executor when there is a deficiency of assets. "Since the 1st of January, 1874, and consequently at the time the action at law in question was commenced, the defendant, being sued, had only to lay before the Court in which the action was pending the true state of matters, when such an order would have been made as would have relieved her, and would have caused the distribution of the estate contemplated by the act to have been made." Here the executrix was held liable to the estate for the amount paid to judgment creditors by the sheriff over what would have been coming to them in an administration *pro rata*. But as the executrix herself obtained an order against the judgment creditors for the amount overpaid them, it will be seen that the