

It is the duty of an executor to use dispatch in the settlement of the estate; the period allowed by law for that purpose is not a prescribed delay, but rather a restriction of it.

Where the same person is both trustee and executor under a will, and settles up the personal estate in the Orphans Courts, the balance, after such settlement, remains in his hands as trustee, and not as executor.

There is no special power or jurisdiction given to the Orphans Courts over a trust created by a will for the support of minor children, and that court has no general jurisdiction over trusts.

Accounts passed by administrators and executors in the Orphans Courts, are themselves *prima facie* evidence of their correctness.

The executor or administrator administers the estate *in pais*, and the obligation is upon him to ascertain the individuals entitled to legacies, distributive shares and residues, and not upon the Orphans Court.

The power given by the act of 1798, ch. 101, to distribute the surplus is not the same as that to pass the claims of creditors, or make allowances in the settlement of the estate.

An order of the Orphans Court, directing an executor to pay "to the guardian of the minor children of G. and M. the property in his hands, to which said children are entitled under the will of H. M.," where the executor has not complied with requisitions of the 12th sec. of the 14th sub ch. of the act of 1798, ch. 101, will not protect him in the payment of a balance of money in his hands as executor, against the claims of other parties than those for whose benefit he paid the same.

The 12th section of the 15th sub ch. of the act of 1798, ch. 101, applies only to contested questions, *inter partes*, and not to *ex parte* proceedings.

Wherever there is a suit in Chancery, by an executor or any person interested in the estate, for the administration of the assets, and the executor pays either to creditors, legatees, or distributees, by order of the court, he is protected by the order.

But the Orphans Courts have no jurisdiction, except what is given by the legislature, and they must exercise the powers given in accordance with the grant.

A testatrix, after bequest of some specific articles of plate, bequeathed as follows, "the rest of my plate I should wish to be divided among the children of my daughter, unless my trustees should think it most advisable to sell it for their use." HELD—

That the residue of the plate so bequeathed, vested immediately on the death of the testatrix in the children of her daughter then born, and the power to the trustees to sell does not extend to the death of the daughter, but must be exercised within a reasonable time: but jewels cannot be deemed plate.

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[Mrs. Henry Margaret Ogle, by her last will, executed on the 7th of April, 1814, devised as follows:

"I give and devise all my estate, real, personal and mixed, (except what shall be hereafter mentioned,) to my son Benjamin Ogle, my son-in-law John Tayloe, and my friends Richard