

extraordinary trouble and responsibility; and his accounts show, that he discharged the duties of the trust with care and fidelity. That he should have engaged to perform these onerous, and long continued duties without compensation, or that such a state of things could have been within the contemplation of the parties, at the period to which the evidence refers, is not to be assumed without the stronger proof, and I am by no means satisfied that such is the case. Under these circumstances, and with these views of the justice of the case, as presented by the petition of William J. Barry, I shall pass an order dismissing it.

The Chancellor understood, in the course of the argument, that the specific objections taken in the petition of William J. Barry, to a number of the credits allowed to the trustee in the accounts of the Auditor, were abandoned, with the exception of the allowance of commissions, and the sum of one hundred dollars retained by him on account of William J. Barry's share of the personal estate. But as this sum of one hundred dollars was applied in extinguishment of a part of the over payment to the petitioner on account of the real estate, it is not perceived how he is injured by it.

[No appeal was taken from the decision in this case.]

ESTATE OF EDWARD WIL- }
LIAMS, DECEASED. } MARCH TERM, 1847.

[TRUSTEE TO SELL BEING ALSO GUARDIAN, AS TO THE LIABILITY OF HIS SURETIES.]

WHEN a final account has been passed, or the time limited by law for the settlement up of an estate has elapsed, and the same person who is executor or administrator, is also guardian to the parties entitled to the surplus, the law will adjudge such surplus in his hands, in that character in which his duty requires he should hold it.

The transfer in such case is effected by operation of law, and requires no act of the party himself.

This principle does not apply to a trustee appointed under a decree of a Court of Chancery to sell property, where no *time* is fixed by law, for the completion of his trust.