

in his hands in the capacity of guardian, after the time limited by law for the settlement of the estate, whether a final account has been passed by the Orphans Court or not, upon the principle, that what the law has enjoined upon him to do, shall be considered as done. The Chancellor is not able to perceive the analogy between that case and the one now under consideration. The law has limited a period within which an executor or administrator shall settle the estate, and when the same person is clothed with either of those offices, and is also guardian of the parties to whom the surplus, after paying the debts of the deceased belongs, it seems entirely proper, when the time for the final settlement of the estate has elapsed, that he should be regarded as holding such surplus in the character in which his duty requires he should hold it. The transfer in such a case from the executor or administrator to the guardian—he being the same individual—is effected by operation of law, and requires no act of the party himself. But the case of a trustee appointed under a decree of this court to sell property is entirely different. *No time* is fixed by law for the completion of his trust. His duty, and the condition of his bond require him to perform the trust reposed in him by the decree, or that may be reposed in him by any future decree or order in the premises; but there is nothing in either which limits or defines the time within which the trust reposed in him must be completed. The Chancellor is not aware that the counsel undertook to state at what precise period this shifting of the property from Mr. Selby, trustee, to Mr. Selby, guardian, took place, and he thinks it would be extremely difficult to do so. His appointment as trustee took place in August, 1837, but the money in question was not received until 1842—five years afterwards—nor could it have been received earlier, unless the time of payment had been anticipated, as the credit on the principal proceeds of sale did not expire until the 7th of September of that year. Selby unquestionably received this money as trustee, and was to account for it as such. At what period did he cease to hold it in that character, and become responsible for it as guardian?—is a question which seems to me not easily