

The grant of such a power to be construed strictly, 129.

The power of eminent domain, on just grounds, may be exercised over all property, 135.

EVIDENCE.

Settlements made by the Orphans Court are not conclusive; but when relied on by a guardian, he should exhibit all the accounts on which it is founded.—*Crapster v. Griffith*, 11.

Depositions taken under a commission issued by the consent of a part of the defendants, cannot be read against the others.—*Kipp v. Hanna*, 30.

Testimony may be taken under an order before a justice of the peace.—*Townshend v. Duncan*, 45; *Andrews v. Scotton*, 631; *Cockey v. Chapman*, 83; *Onion v. McComas*, 85.

The probate of a will of real estate considered as *prima facie* evidence.—*Townshend v. Duncan*, 45.

The average amount, or medium time assumed, where the proof is indefinite or various.—*Contee v. Dawson*, 298; *Parker v. Mackall*, 66, 67; *Norwood v. Norwood*, 482.

The truth being in some cases more clearly evidenced through the eye by a diagram, such drawings may be resorted to as evidence or illustration of facts.—*Binney's case*, 114.

Presumptions in regard to surplus water, issuing from a canal, for mills, 138.

No evidence can be introduced to explain the meaning of an act of the legislature; but the words therein used may be explained as by a dictionary, &c., 150, 154.

Any correct evidence may be resorted to for the purpose of shewing what is the common law, 152.

The mode of collecting testimony and taking depositions.—*Winder v. Diffenderfer*, 184.

No objection, coming from a party, to suspend the taking of depositions; but such objections to be noted and decided at the hearing, 192.

A witness may, for cause, demur; upon which his examination must be suspended, 194.

A witness may be compelled to attend, and have his deposition taken before a justice of the peace, 196.

The books of a bank, shewn to contain pertinent evidence, must be produced, 195.

A party may, as of course, withdraw any document which he himself has voluntarily put upon file for the purpose of having it authenticated.—*Maccubbin v. Matthews*, 251.

A witness may be summoned and compelled to give evidence before commissioners, 252.

A commission to take evidence should be executed within a reasonable distance of the residence of the witness, 253.

It is proper to go as far as may be safe, in giving credit to authentications coming from other parts of this Union.—*Contee v. Dawson*, 283.

A party cannot avail himself of proof in regard to any matter not alleged, 285.

A witness or party, ordered to testify or to account, may be summoned and compelled to give evidence before the auditor.—*Hammond v. Hammond*, 310.

A person absent, and not heard from for seven years, may be presumed to be dead.—*Tilly v. Tilly*, 444.

Where it becomes necessary to have the plaintiff's *prochein ami* examined as a witness, he may be discharged, and another appointed in his place.—*Helms v. Franciscus*, 550.

It is the duty of the court to have all its proceedings and proofs translated into the English language, 551.

A petition for the production of books and papers, to be used on a trial at law, must give a sufficient description of them.—*Duvall v. The Farmers' Bank*, 686.

EXECUTORS AND ADMINISTRATORS.

A decree against an executor out of assets, for a part, for the residue, out of his own goods, and for costs, out of his own goods.—*Cheseldine v. Gordon*, 82.

An absolute judgment against an executor or administrator is conclusive of a sufficiency of assets to pay that debt, and also a debt for which he may retain; which conclusion must necessarily enure to the benefit of the heir or devisee.—*Ellicott v. Welch*, 243.

An executor must expressly aver an insufficiency of assets, otherwise he cannot prove and avail himself of the fact.—*Contee v. Dawson*, 286.

The property of a debtor may be detained in this state for the benefit of creditors residing here, or of the state in opposition to a foreign administration, or to the bankrupt or insolvent laws of another country.—*Corrie's case*, 489.

The succession to personal property, on intestacy, is regulated by the law of the deceased owner's last domicile, 489.

FERRY.

One tenant in common, cannot set up another ferry to the prejudice of his co-tenant.—*Norwood v. Norwood*, 476, 483.

Tenants in common, of a ferry, decreed to account, 477.

The specific performance of an agree-