

of kin. (q) When an executor or administrator presents himself before the Orphans Court, for the purpose of voluntarily rendering an account, it is only authorized to receive and pass the account in a particular manner and upon vouchers of a specified description. The inventory including all chattels real, personal property and debts, due to the deceased, forms the aggregate of the debts or charges; and the payment of debts and expenses as shewn by the vouchers then produced form the sum total of the credits for which he prays to be allowed. After the account is thus adjusted and finished it is recorded. And when the whole estate cannot be finally settled by one account, the executor or administrator is allowed to pass a first, second, &c. accounts, until the whole is closed. (r)

According to this course of proceeding in the settlement of the accounts of an executor or administrator, which prevailed under the Provincial government, and has been continued ever since, when the specially described vouchers or documents, from which the account was made, have been allowed by the court; it is said to be proper to set a mark on them denoting the allowance and entry, lest they should happen to be offered a second time, and the estate be doubly charged. (s) Whence it clearly appears, that although the account itself is recorded, yet that the vouchers, or the proofs from which it has been framed are never impounded, as in England; (t) or retained by the court for any purpose; nor are they made a part of the record, or considered as of themselves, like an original will, forming a portion of the records or proceedings of the court; since, as it is said they are marked; because being at once re-delivered to the executor or administrator they may be offered a second time. (u)

These testimonials whereby an executor or administrator sustains his account ought not, certainly, to be allowed a higher degree of importance than similar documents brought before this court by litigating parties. When books and papers are brought into this court, as parts of the necessary evidence in a case, they are, during the time of their being so detained, said to be impounded; and therefore, while so retained here, they cannot be taken from the

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(q) 3 Blac. Com. 98; 1798, ch. 101, sub ch. 15, s. 12.—(r) 1798, ch. 101, sub ch. 10; Dep. Com. Guide, 48; 1831, ch. 315, s. 4.—(s) Dep. Com. Guide, 39.—(t) *Nielson v. Cordell*, 8 Ves. 146.—(u) *Bowyer v. Green*, 6 Exch. Rep. 87.