

That the surviving husband of the niece, had the same title to demand this legacy bequeathed his wife, as if it had been payable out of the personal estate of the testator ; and, that it made no difference whether the wife died before or after the sale actually took place.

A partial failure of a devise to a widow who abides by the will, will not entitle her to compensation out of the residue of the estate, unless the failure is to such an extent, as to make what she receives under the will, less in value than her legal share of her husband's estate.

When it is said in the act of 1798, ch. 101 ; sub. ch. 13, sec. 5, that a widow standing by the will of her husband, is to be considered as a purchaser with a fair consideration, it cannot be meant, that she is so to be regarded, whatever may be the extent of the devise to her.

But, the sound and just rule must be, that she is to be considered a purchaser of the devise, to the value of her share or legal right.

The whole of the testator's property will, in equity, be charged with the payment of his debts, in favor of his manumitted slaves, and, in a judicial proceeding, to determine the invalidity of a deed of manumission as being in prejudice of creditors, the negro manumitted is entitled to the assistance of the heir at law, or the person holding the real estate, in taking an account of the amount thereof before the insolvency of the deceased manumittor can be legally ascertained.

With regard to the manumittor himself and his legal representatives, the manumission, though in prejudice of creditors, is valid, and the negroes manumitted are not assets for the payment of debts.

Where the administrator of an executor takes out, jointly with another, letters of administration *de bonis non*, on the estate of the testator, he does not exclusively represent both estates ; and, consequently, there can be no transfer, by operation of law, of the property in his hands, as administrator, to him as administrator *de bonis non*.

[Joseph G. Harrison, deceased, by his will, dated 2d November, 1844, devised to his wife, Matilda B. Harrison, eighty acres of land ; and devised, that his executor should sell the rest of his real estate, and pay to his wife one-third of the balance of the proceeds which might remain after the payment of his debts. He also devised to his niece, Isabella Thomas, two thousand dollars, without interest, to be paid out of the proceeds of the sale of his real estate ; and the balance of the money arising from said sale, he gave to his nephew, Thomas L. Simmons. The testator, by his will, also manumitted some of his slaves immediately, and to the others he gave the privilege, after serving out a term of years, of emigrating to Africa.

Such proceedings were had in the above cases consolidated, that a sale of the real estate was made by Wood, the executor,