

HENRY H. BROWN  
 vs.  
 ROBERT STEWART AND OTHERS.  
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 ROBERT STEWART  
 vs.  
 HENRY H. BROWN.

MARCH TERM, 1849.

[SETTLEMENT—COMMISSIONS TO ADMINISTRATORS—EVIDENCE—LIMITATIONS.]

A SETTLEMENT between parties accompanied by a sealed obligation of one to pay the balance found due by the settlement, must be regarded as concluding all antecedent transactions between the parties, unless it can be shown by proof that it was founded upon mistake or was procured by fraud.

Agreements transferring the right to administer upon an estate to a third party, in consideration of receiving from such party the commissions, are against the policy of the law.

But an agreement between two parties, both equally entitled, that a joint administration shall be taken out, and that as the principal labor and responsibility was to be borne by one, the other would be content with such portions of the commissions as his associate should think he deserved, is valid.

Where there are two executors, both are equally entitled to commissions, and, in the absence of any express agreement, neither can deprive the other of his share, upon the ground that the party claiming the whole has performed the entire labor of settling up the estate, but by an agreement *inter sese* they may provide for an unequal division of the commissions, or that one shall have the whole.

It may be shown by parol evidence which of two parties to a pecuniary obligation, binding upon both, is the principal debtor, so as to adjust the equities as between themselves.

The act of limitations does not apply to the claim of one of two administrators, against the estate of his intestate ; he cannot sue himself at law.

[A statement of the facts of these cases and of the allegations of the bills and answers will be found in 1 *Md. Ch. Decisions*, 87, where the first opinion of the Chancellor is reported. Thos. R. Cross, the party upon whose estate Brown & Stewart jointly administered, was the father-in-law of each. The proceedings in the case subsequent to the filing of the opinion previously reported, are sufficiently stated in the following opinion of the Chancellor.]