

Carroll, }
Feb. 3, 1942. } No. 3318.

ADDIE E. PODRASNIK, *Ex'x v.* ROCHESTER TRUST Co. & a.

Cooper, Hall & Grimes (by brief), for the plaintiff.

Snow & Peyser (by brief), for the Rochester Trust Co.

Leonard C. Hardwick, by brief, for other defendants.

Frank R. Kenison, Attorney-General, and *Ernest R. D'Amours*, Assistant Attorney-General, for the State.

PER CURIAM. This case is a petition by an executrix for construction of a will; and instructions relating to her duties in a fiduciary capacity other than as executrix, if the will is construed to create such duties.

The first prayer of the petition is to have the proper distribution of the estate decided. Until the distribution is decided, the other prayers for relief cannot be acted upon. Original jurisdiction to decree the distribution is by statute vested solely in the Probate Court. This is settled by Revised Laws, c. 360, s. 7, which makes no substantial change in the law existing before the reënactment. It follows that the sole procedure is for the petitioner to file an account of her settlement of the estate accompanied with a petition for a decree of distribution of the balance found in her hands upon the settlement. Thereafter any trustee appointed to receive a share in the distribution and anyone having fiduciary duties thereunder may apply to the Superior Court for instructions in matters as to which they may properly be informed of their duties.

Petition dismissed.