proved and passed by the Orphans' Court. This sum Joseph H. Frick testifies was afterwards, paid out by him on claims that had not been proved nor passed by the Orphan's Court, but he does not produce said Claims nor the receipts for such payments. This was an improper application of this fund, and the executor made it at his own risk. He should have paid no claims until after they had been properly proved and then been passed by the Orphan's Court and for the purpose of paying other claims properly proved and passed, this surplus must be considered, as yet in the hands of the executor, and he and his official bondsmen are still responsible for its proper appropriation. "If personal assets come to the hands of the executor or administrator sufficient to pay all debts of the deceased, the creditor must look to that fund for the payment of his debts: and if those assets are wasted, his remedy is on the official bond of the executor or administrator". Lyde Griffith vs. The Frederick County Bank et al, 6 G. & J. 445. The single bill now held by Mrs. Frick, has never been proved nor passed by the Orphan's Court, and there is no proof that she has ever made any effort to collect it from the executor, (who is now her husband) out of the personal assets of the estate. Had she proved her single bill, and had it passed by the Orphans' Court, in proper time, the said sum of $576.$\frac{77}{100}$ would have been paid on it, instead of being distributed to her husband as residuary legatee. She has therefore been negligent in this respect, and she must bear the loss, if any there be, rather than John M. Frick, for the payment of whose legacy the Bill in this case was filed, and the decree passed. It is therefore this 18th day of June A. D. 1878, by the Circuit Court for Frederick County, as a Court of Equity, and by the authority thereof, adjudged, ordered and decreed, that so much of the order of this Court filed in this cause on the 22nd day of October A. D. 1877, as disposes of the said sum of Six hundred Dollars audited to said John M. Frick be, and the same is hereby rescinded, and it is further Ordered and decreed by the authority aforesaid, that the trustees pay out said fund as audited.

John A. Lynch
Judge of the Cir. Court

Filed June 18th, 1878

(Release Filed and Recorded Sept. 9, 1878) Know all men by these Presents, that I, John M. Frick have received of Milton G. Urner and Wm. H. Hooks the Trustees, in No. 3825 Equity case in the Circuit Court for Frederick County, State of Maryland, the full sum of Seven hundred and fifty four dollars and thirty two cents, allowed me in payment in full of the Legacy and interest thereon due me and one ninth of the real estate sold, by the Audit made and ratified in said case and also the sum of twelve dollars commissions so therein allowed and which was paid by me as per voucher filed and also the sum of Eighty cents therein allowed for Lease Sheriff which was paid by me as per voucher filed, and also the sum of three dollars and ninety cents allowed Ky. A. Baker and David Stauffer two of the Complainants witnesses and which was paid by me less ten dollars and fifty five cents additional costs on this twenty third day of July in the year Eighteen hundred and Seventy Eight, and do hereby release, exonerate, acquit and forever discharge the said Milton G. Urner and Wm. H. Hooks, their heirs, Executors or administrators from all claim or demand or demands whatever on account thereof either in law or Equity. In testimony whereof I have hereunto subscribe my name and affix my seal this twenty third day of July in the year Eighteen hundred and Seventy Eight.

Witness R. G. Barrick — John M. Frick (Seal)

State of Maryland, Frederick County to wit. I hereby certify that on this twenty third day of July in the year Eighteen hundred and Seventy Eight, before me the subscriber a Justice of the Peace of the State of Maryland in and for Frederick County personally appeared John M. Frick and acknowledged the foregoing release to be his act.

R. G. Barrick J.P.

(For Release from Joseph H. W. Frick Vide Land Record Liber A. J. No. 1. Folio)