credit for the sum of $50, a fee to counsel retained by him to defend that suit.

The defendant Stockett excepted to the accounts A and B, because in said accounts the defendant Wayman was allowed one-half of the commissions heretofore allowed to this exceptant by the Orphans' Court; and he excepted to the account C, because the complainants were thereby allowed interest on their legacy from the time of the death of the testator; whereas interest ought not to be allowed until twelve months thereafter.

BLAND, C., 21st February, 1828.—The solicitors of the parties having been fully heard, the proceedings were read and considered. It is clear, that the allowance of commissions to executors, in all cases properly brought before an Orphans' Court is a matter as entirely within the jurisdiction of that tribunal as this; and in so far as it appears, that the matter of commissions had been adjusted and determined by the Orphans' Court, as has been done in this instance, the judgment of that tribunal cannot be reviewed or reversed by this Court. Therefore the first exception must be sustained.

This legacy, the annual interest and profits of which alone have been given to the plaintiff Ann, during her life, is only payable out of the personal estate of the testator; as to which it has been laid down as a general rule that, as the executors must be allowed a reasonable time to collect the estate, first to satisfy the creditors and then the legatees of the deceased, no such legacy shall carry interest until one year after the death of the testator. *Sitwell* v. *Bernard*, 6 *Ves.* 539; *Bourke* v. *Ricketts*, 10 *Ves.* 333. And this general rule applies as well to annuities as to mere pecuniary legacies; for an annuity so given is a legacy, and therefore even if the donation to the plaintiff Ann be regarded as a mere annuity, although with propriety it cannot be in all respects so considered, still it falls under the general character of a legacy, and must in
*this respect be governed by the same general rule. *Hume* **417**
v. *Edwards*, 3 *Atk.* 693; *Nannock* v. *Horton*, 7 *Ves.* 401; *Sibley* v. *Perry*, 7 *Ves.* 534; *Franks* v. *Noble*, 12 *Ves.* 485. Where a parent gives a legacy to a child, especially if the child has no other means of support, there, because of the duty of a parent as far as he can to provide a maintenance for his child, the legacy shall carry interest from the death of the testator; *Crickett* v. *Dolby*, 3 *Ves.* 13; *Chambers* v. *Goldwin*, 11 *Ves.* 1; and so too in all other cases, if such be the express declaration or manifest intention of the testator, the legacy shall bear interest from his death. But this legacy is given by an uncle to his niece and her children, and there is no intimation by the testator as to the time from which the legacy is to begin to bear interest, and therefore the second exception must also be sustained.