

The jurisdiction of the courts of equity to superintend the administration or assets, and to secure the payment of what may be left, after the discharge of debts, &c., either to legatees or distributees, seems to be as firmly established; for, notwithstanding the act of parliament which gives to the spiritual court, in England, authority to decree a distribution of the residue, it has been held that as the act does not contain negative words, the jurisdiction of the Court of Chancery was not taken away. 1 *Story Eq.*, sec. 542.

And in the case of *Drury vs. Conner*, 1 *H. & G.*, 220, the right of a ward to proceed in equity against his guardian, is treated as a right, not open to controversy. In this case, it is urged, that there is no necessity for an account, because the amount claimed is specific and liquidated, and that the remedy at law might be prosecuted upon the bond of the guardian, without difficulty or embarrassment. It will be remembered, however, that though the amount claimed by the bill is liquidated, an account of the assets may be necessary, there being nothing at this time in the case to show them to be sufficient. But the jurisdiction of the court is not put upon this ground, but upon the ground that this is one of those cases, in which this court having original jurisdiction, is not deprived of it, because the courts of law by statutory enactment may have power over the same subject; the enactments giving them authority, containing no provisions depriving this court of its ancient jurisdiction. Indeed, the remedy in this court is so much more complete, and the power of the court of law, in many cases involving the administration of assets, so entirely inadequate, that it would be matter of serious regret, if the conferring of jurisdiction upon the latter, should have the effect of ousting the former.

The next objection urged to a decree upon this bill is, that the complainants are improperly joined; and it is contended that this is an objection which may be taken at the hearing, though there is no demurrer, and the answer takes no such defence.

There may be cases in which an objection of this descrip-