

funds, and also declares, in the 7th section, that the investments shall be made in the name of the infant. But this, though a direction very proper to be followed, could not have the effect of avoiding the security, if not pursued. A similar authority is to be found in the 2d section of the Act of 1816, ch. 203, which applies to the proceeds of the sales of leasehold estates sold under the authority of the Orphans Court, or any surplus money belonging to the ward; and, by the 2d section of the Act of 1819, ch. 144, the provisions of the Act of 1816, ch. 154, are extended to the personal estate of minors, so that by these several Acts, the Orphans Courts are empowered to direct the guardians of minors to invest the proceeds of the sales of their real, leasehold, or personal estates in public stocks, or other permanent funds, in the names of their wards. But subsequently, by the 5th section of the Act of 1831, ch. 315, the Orphans Courts are authorized to order any executor or administrator or guardian, either of their own appointment, or a natural or testamentary guardian, of whose bond they may have approved, to bring into Court, or place in bank or in other incorporated stock, or in any other good security, any money or funds received by such executor, administrator, or guardian, and the Court is empowered to direct the manner in which the investment shall be made, the money being at all times subject to the order and control of the Court.

This last law, then, completely covers the present case, because it is thought to be quite clear that the subsequent recognition and approval by the Court of the investment, is fully equivalent to a previous direction to make it. The last sentence, in the opinion of the Court of Appeals in the case of *Jenkins vs. Walter*, 8 *G. & J.*, 218, is strong to show that a guardian depositing money in a bank, with the sanction of the Orphans Court, will be protected from loss, though the bank may become insolvent.

I am, therefore, clearly of opinion, that Shepherd, the administrator, who, in making this loan to William McNeir, was but the instrument and agent of George McNeir, the guardian of the infant, cannot be held responsible for the loss, and