grandchildren," (naming them,) "to them and their heirs forever."

After the death of the widow, the executor sold the real estate of the testator, under the directions of the will, and then filed his bill in chancery, asking the aid of the court as to the distribution of the proceeds, stating that they far exceed the legacies charged upon the land, and that he is in doubt whether the said proceeds are to be distributed as real or personal estate. He also states his proceedings in the Orphans Court as executor, and asks leave to account in this court in order to save himself from risk and loss. A decree for an account was passed accordingly.

The Auditor stated an account in which he assumed that the real estate of the deceased was converted by his will only to the extent of the legacies charged upon the money to arise from its sale, and the portion thereof of one of the grandchildren who died intestate after the death of the testator, but before the decease of the widow, was assigned equally to his brothers of the whole and half blood as the proceeds of an estate vested in him by descent on the part of his father. The Auditor also in his account deducted the sum of $29 25 from the allowance made to the executor by the Orphans Court as commissions at seven and one-half per cent. on $390, being the difference in value between the appraisement and reappraisement of negroes belonging to the estate.

Exceptions were filed to this account, so far as it regards the proceeds of the real estate directed to be sold as realty, and also to that portion of it which makes a deduction from the commissions allowed by the Orphans Court to the executor. The last exception was based upon the ground, first, that such allowance being made by the Orphans Court, a court of exclusive jurisdiction on that subject, the same cannot be revised by this court; and second, that it was a proper allowance being on the increased value of the property in the hands of complainant, and is similar to such allowance on increase of sales over appraisements. Upon these two questions, the Chancellor delivered the following opinion.]