

ORPHANS COURT—*Continued.*

3. There is no special power or jurisdiction given to the Orphans Courts over a trust created by a will for the support of minor children, and that court has no general jurisdiction over trusts. *Ib.*
4. Accounts passed by administrators and executors in the Orphans Courts, are themselves *prima facie* evidence of their correctness. *Ib.*
5. The executor or administrator administers the estate *in pais*, and the obligation is upon him to ascertain the individuals entitled to legacies, distributive shares and residues, and not upon the Orphans Court. *Ib.*
6. The power given by the act of 1798, ch. 101, to distribute the surplus is not the same as that to pass the claims of creditors, or make allowances in the settlement of the estate. *Ib.*
7. An order of the Orphans Court, directing an executor to pay "to the guardian of the minor children of G. and M. the property in his hands, to which said children are entitled under the will of H. M.," where the executor has not complied with requisitions of the 12th sec. of the 14th sub ch. of the act of 1798, ch. 101, will not protect him in the payment of a balance of money in his hands as executor, against the claims of other parties than those for whose benefit he paid the same. *Ib.*
8. The 12th section of the 15th sub ch. of the act of 1798, ch. 101, applies only to contested questions, *inter partes*, and not to *ex parte* proceedings. *Ib.*
9. Wherever there is a suit in Chancery, by an executor or any person interested in the estate, for the administration of the assets, and the executor pays either to creditors, legatees, or distributees, by order of the court, he is protected by the order. *Ib.*
10. But the Orphans Courts have no jurisdiction, except what is given by the legislature, and they must exercise the powers given in accordance with the grant. *Ib.*
11. In case of a deficiency of assets to pay debts, general legacies must be exhausted before the specific legacies can be resorted to for contribution, and this rule prevails though the general legatee be the widow of the testator, where the provisions made for her by the will exceed her common law rights, at least so far as the excess is concerned. *Mayo vs. Bland*, 484.
12. Commissions to an executor will not be distributed so as to be thrown upon the separate portions of the personal estate, in order to make the several legatees, general and specific, bear their proportions thereof; such a distribution would be introducing an entirely new principle in our testamentary system. *Ib.*
13. Real estate was directed by a will to be sold by the executor for the benefit of all parties interested in the estate, which was accordingly sold by the executor under the act of 1831, ch. 315, sec. 10. HELD—That the proceeds of such estate is to be treated as a portion of the personal assets, and is liable for the debts of the testator. *Mad-dox vs. Dent*, 543.

See PRACTICE IN CHANCERY, 43.