which he says that he had stated and therewith returned accounts A and B, between each of the defendants, as an executor, and the estate of *Larkin Shipley*, deceased; and also account C, between said estate and the complainants *Jones* and wife; that there was a balance in the hands of *Wayman* of $51 68, and in the hands of *Stockett* of $145 95; and that there was due to *Jones* and wife, on account of interest on their legacy, the sum of $144 01. The auditor further says, that he had allowed *Stockett* 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.

21*st February*, 1828.—BLAND, *Chancellor*.—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. (*g*) 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

(*g*) Sitwell v. Bernard, 6 Ves. 539; Bourke v. Ricketts, 10 Ves, 333.