

of time may not operate as a bar to a bill for an account; and, perhaps, if it were necessary in this case to examine into the circumstances which are relied upon as an excuse for the delay, they would not be found sufficient to account for it.

[The decree in this case was affirmed by the Court of Appeals.]

PETER W. CRAIN ET AL. }
 vs. } DECEMBER TERM, 1847.
 BARNES AND FERGUSSON. }

[GUARDIAN AND WARD—JURISDICTION—PRACTICE—PROOF OF PAYMENT.]

A PROCEEDING by the representatives of a ward against the executors of a guardian, to recover a legacy bequeathed to the ward, and which the guardian had received from the executors of the testator who made the bequest, is clearly within the jurisdiction of a court of equity.

The relation of guardian and ward, and the rights and obligations which grow out of it, are peculiarly within the jurisdiction of a court of equity, and its power to afford a remedy for a breach of the trust cannot be questioned, unless it has been taken away by some express statutory enactment.

Every guardian, however, appointed, is responsible in equity for his conduct, and may be removed for misbehavior.

Where the Court of Chancery has original jurisdiction, it is not deprived of it because the courts of law, by statutory enactment, may have power over the same subject, when the enactments giving them authority contain no provisions depriving this court of its ancient jurisdiction.

It is too late to urge the objection of misjoinder of plaintiffs, when the case is ready for decision upon the merits, when there is no demurrer, and the answer takes no such defence.

Courts of equity are not subject to those strict technical rules, which in other courts are sometimes found in the way and difficult to surmount. The remedies here are moulded so as to reach the real merits of the controversy, and justice will not be suffered to be entangled in a web of technicalities.

The omission of the prayer for the specific relief, is no reason why, under the general prayer, the complainants may not have such relief, as the case alleged and proved may entitle them to.

The only limitation upon the power of the court to grant relief under the general prayer, is, that it must be agreeable to the case made by the bill, and not different from or inconsistent with it.