

As evidence of payment of a legacy due to a ward, the defendants relied upon a memorandum in the hand writing of C., the husband of the ward, by which he charged himself with "amount of B's draft of \$500." (B. being the guardian.) The draft was not produced, and there was no proof of its payment, or on what account it was drawn. They further claimed a credit of \$1500, being the amount of a check by B. on the Bank of Baltimore, payable to C. or bearer, which was paid by the bank, but to whom the money was paid, did not appear. **HELD—**

That this evidence of payment was wholly inconclusive and unsatisfactory, and that it would be a departure from the rules established for the ascertainment of truth, to give it the effect for which the defendants insist.

Courts of justice are not at liberty to indulge in wild, irrational conjectures, or licentious speculations, but must act upon fixed and settled rules. And it is far better that individuals should occasionally suffer, than that principles, which time and experience have shown to be essential to the ascertainment of truth, should be broken down or disregarded.

Where no time is fixed by the will for the payment of a legacy, it will bear interest from the expiration of one year after the death of the testator.

[By the last will and testament of Samuel Bond, dated 8th July, 1818, Mary Clarissa Bond Barnes, was bequeathed a legacy of \$3000, and also one-fourth of his slaves. John Barnes, her father, and surviving executor of the deceased, passed his first and final account on the 14th April, 1830, showing a balance of \$38,338 16 in his hands for distribution amongst the parties entitled. As guardian to his daughter, he was awarded by the Orphan's Court a proportion of the slaves, estimated at \$2337 50, and the pecuniary legacy of \$3000. Mary C. B. Barnes, intermarried with William P. Compton, in the year, 1825, and died in the year 1834, leaving her husband, and an infant son, Barnes Compton, surviving her, of whom the former died in 1837. At his death, John Barnes became guardian of the infant, and bonded as such. Said Barnes died also, in the year 1844, and by his will appointed the defendants, Richard Barnes, and Robert Fergusson, his executors. Letters of administration on the estate of Mary C. B. Compton were subsequently granted to Peter W. Crain, and Henry G. S. Key, who in their representative capacity, and as the next friend, of said Barnes Compton, sued the executors of John Barnes for the pecuniary legacy which they allege to be still due; admitting the receipt by Compton and wife, of her share of the negroes.