

Compton, with interest from the expiration of one year after the death of the testator, in conformity with the general rule upon the subject of interest when no time of payment is named by the will, the said sum, with the interest to be paid to the complainants, Crain and Key, as the administrators of the said Mary C. B. Compton. The Auditor will be also directed to take an account of the assets of the estate of the said John Barnes, in the hands of his executors, from the pleadings and proofs now in the cause, and such further proofs as may be laid before him by a day to be limited in the order, for the purpose of ascertaining whether there shall be any abatement of said legacy, on account of a deficiency of assets. He will also state an account between the administrators of the said Mary C. B. Compton, and the minors of Barnes to the end, that such final disposition may be made of the case as the rights of the parties may render expedient and proper.

[This order was affirmed on appeal.]

JOHN McTAVISH AND EMILY  
McTAVISH, EXECUTRIX OF  
CHARLES CARROLL, OF CAR-  
ROLLTON,  
vs.  
WILLIAM CARROLL.

DECEMBER TERM, 1847.

[APPLICATION OF PAYMENTS.]

THE general rule upon the subject of appropriation of payments, gives to the debtor, in the first place, the right to make the application, and then upon his omitting so to do, to the creditor.

If a party is indebted on mortgage and simple contract, and making a payment, neglects to apply it, the law will apply it to the mortgage or bond, as most beneficial to the debtor; and such is the undoubted rule where no particular application is made by either party.

Payments made generally, are applied in extinguishment of debts bearing interest, where there were others due the same creditor, not carrying interest.

If a party is indebted on several accounts and makes a payment, he may apply it to either; if he does not, the creditor may do so, and if neither does, the law will appropriate it, according to the justice of the case.