

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.

[The allegations of the bill and answer, and the facts of this case, will be found fully stated in the following opinions of the Chancellor.]

THE CHANCELLOR :

In the case of *Pennington, Adm'r of Patterson vs. James C. Gittings, Executor of James Gittings*, 2 G. & J., 208, one of the questions raised and discussed in this case was examined and decided by the Court of Appeals, and upon the principles there settled, this case, so far as the same question is concerned, must depend.

It was there decided that neither a *donatio inter vivos* or a *donatio mortis causa* by mere parol was effectual. That in either case a *delivery* of the thing intended to be given was essential to the perfection of the gift, and that this *delivery* must be according to the manner in which the particular thing, the subject of the gift, is susceptible of being delivered; that there must be a parting by the donor with the legal power and dominion over it. If he retains the dominion—if there remain to him a *locus penitentiae* (which must be the case when he retains the possession, and what is done is merely by parol), there cannot be a perfect and legal donation; and that which is not a good and valid gift at law cannot be made good in equity.

In that case, the subject of the supposed gift was seventy-five shares of stock in the Commercial and Farmers' Bank of Baltimore, and the allegation of the bill (which allegation was assumed by the Court to be established by the proof) was, that the testator of the defendant gave and handed to the complainant's intestate the certificate of the stock, entitling the holder thereof to the number of shares mentioned in it, at that time and in her presence endorsing his name on said certificate, informing her (she being his daughter) that he gave her the same to supply the loss of certain ground-rents which he had previously given her.

It was insisted in that case, that by the delivery of the cer-