

than the proof and proceedings in the cause warrant; *second*, because there is a charge of interest in said account, whilst none is justified by the said proof and proceedings; or if any interest should be charged, because the same is charged at too great a rate; and because there is a charge of compound interest; *third*, because if liable to interest at all, it was only from the death of *Mrs. Clerklee*, which was on the 23d of November, 1818, and the same is calculated from the 15th of October, 1818; *fourth*, because no allowance is made for the expenses charged by the bankers, in England, to the trustees of the legacy, and paid by them; *fifth*, because no allowance is made for the loss upon that portion of the legacy invested by *William Dawson*, in the stock of the City Bank of Baltimore; but his estate is charged with the whole sum so invested; *sixth*, because no credit is given for the amount of the legacy loaned to *Mrs. Clerklee*; *seventh*, because said report and accounts are in many other particulars erroneous and not warranted by the proof and proceedings in the case.

26th January, 1830.—BLAND, Chancellor.—This case standing ready for final hearing, and having been submitted, without argument, the proceedings were read and considered.

On reviewing the order of the 14th of April last, and considering the proofs taken under it, as reported by the auditor with his statements, it appears, that a question has arisen, which was not at all contemplated by the reasoning and explanations with which the case was sent to the auditor.

The late trustee *William Dawson*, in his letter of the 9th of July, 1818, speaking of the sale of the British stocks, in which the legacy had been invested, says 'that by the advance in the price of the funds, and some interest since the death of *Major Clerk*, the amount paid to my banker, is £2,406 14s. 2d. sterling.' When this case was last under consideration, there was no proof by which the allusion of this expression, 'and some interest, since the death of *Major Clerk*,' could be shewn to apply to any other than the dividends arising from the investment made by the trustees; and which, belonging to *Margaret R. Clerklee*, as tenant for life of the legacy, could not be awarded to those of her children who were parties to this suit. I therefore directed the amount of such interest to be ascertained by proof, to be laid before the auditor; and that the defendant *Eleanor Dawson* should be charged with the principal of the amount for which the British stock sold; intending thereby to exclude from the sum to be divided among these lega-