

of her dower, which is the matter now submitted for determination, there is a material difference between the rule prescribed by the Acts of Assembly and the rule of this Court. I had, on considering this matter, thought it would be well to have but one general rule, which should apply indiscriminately to all cases; and, as the Court could not in any way depart from the express provisions of the Act of Assembly, I suggested the propriety of obtaining from the General Assembly an Act, which should establish such a general rule of apportionment as would embrace all cases. A move for that purpose was made in the Senate; *Journal of the Senate, 6th and 18th of February, 1826*; and \* a bill passed **219** accordingly; which however, failed in the House of Delegates. After which, a case was determined in the Court of Appeals, in which, that tribunal seems to have so highly approved of the rule of this Court; *Dorsey v. Smith, 7 H. & J. 346*; that I now feel indisposed to alter it; although considered as the mere judicial legislation of the Court, it might be presumed to be repealable at its pleasure, until the matter shall have attracted more attention, and become more fully understood. I shall, therefore, pass the subject for the present, without further consideration; and, as I am bound to do, follow the legislative rule; 1816, ch. 154, s. 10; in awarding to this widow an allowance out of the proceeds of the sales already made, in lieu of her dower.

Ordered, that the said Susan F. Williams be and she is hereby allowed one-seventh part of the net proceeds of the sales of the property in the proceedings mentioned for and in lieu of her dower.

The auditor reported, that he had examined the proceedings, and stated an account in which the proceeds of sales, \$35,977.50, and the rents, \$400.47, received by the trustee were applied, in the first instance, to the payment of the trustee's allowance for commissions and expenses, the costs of suit, \$1,192.89; the widow's allowance, in lieu of dower, \$4,969.23, and her proportion of the rents, \$133.49, and the balance was distributed among the deceased's children, and heirs-at-law.

BLAND, C., 31st July, 1829.—Ordered, that the foregoing report of the auditor be and the same is hereby ratified and confirmed; and the trustee is directed to apply the proceeds accordingly with a due proportion of interest that has been or may be received.

Elizabeth C. Williams, one of these parties, by her petition stated, that since the bill had been filed, and since her answering thereto, she had arrived at her age of sixteen years, and had become entitled to receive her proportion of the proceeds of the