

terms of the contract of partnership, or amongst the legal representatives of a deceased partner, according to their legal rights and interests.

“And the parties are hereby authorized and allowed to take testimony in relation to such accounts, before any justice of the peace, on giving three days notice as usual ; provided, that such testimony be taken and filed in the chancery office, in this case, on or before the tenth day of April next.”

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[From this order the complainants took an appeal under the act of 1845, chapter 367, which having been argued before the Court of Appeals, MARTIN J. at June Term, 1847, delivered the following as the opinion of the Court:]

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This is an appeal from the order of the Chancellor, of the 19th of January, 1846, instructing the Auditor as to the principles upon which he was to state the account between the parties.

By this order the Chancellor has determined :

*First*, That the partnership in which Samuel Hayes was concerned, was to be treated as subsisting until the 31st of August, 1841, when it was dissolved by the decree passed in the case of the creditor's bill ; and that the accounts of the partnership were to be brought down to that period.

*Secondly*, That the entire estate of the partnership, comprising both its real and personal property, was to be regarded as a fund applicable exclusively, and in the first place to the payment of the debts of the partnership in preference to all other claimants.

And *thirdly*, that the real estate held and owned by the partners, and used by them in the business of the partnership, was to be considered as converted for all purposes into personalty—as possessing, in all respects, the qualities and incidents of personal property, and therefore not subject to the claim of dower.

The appeal has been prosecuted at this stage of the cause, in pursuance of the act of Assembly of 1845, ch. 367, enlarg-