

This case has been carried to the ultimate tribunal, and a final decree obtained; which having been sent here to be executed in the mode prescribed, it consequently becomes my duty promptly to obey. I therefore deem it proper to pass by, without further notice, all those portions of the argument, respecting the incomplete nature and unjust operation of the decree of the Court of Appeals, which have been so strongly urged, and to proceed to the execution of it, according to its clear and unequivocal meaning.

It has been finally and very distinctly declared, that the plaintiff is entitled to recover the value of the labor of certain negroes. That value I conceive has been correctly ascertained by the auditor's account A. I shall, therefore, award it to the plaintiff accordingly. It has been further very perspicuously decreed by the Court of Appeals, that the plaintiff is entitled to one moiety of the negroes *born of Lucy and Milly, who are admitted to be the three negroes Alfred, Cuffee and Eliza. **25**

A partition of personal estate can only be obtained in a Court of equity; and if the partition cannot be made in kind, this Court has the power to order a sale for the purpose of converting the individual property into money, so as to make a correct division of the proceeds of the sale. These three negroes are incapable of a partition into moieties; and consequently, the decree of the Court of Appeals can only be carried into effect by a sale, which I shall order accordingly. *Co. Litt.* 197; *Smith v. Smith*, 4 *Rand.* 95.

Decreed, that the account A, as made and reported by the auditor, on the 20th of September, 1826, be and the same is hereby ratified and confirmed; and the account B, together with all the said exceptions in any manner impeaching the said account A, are hereby rejected and overruled. Decreed, that the defendant pay, or bring into this Court to be paid to the complainant, the sum of \$824.43, with legal interest on \$779.22, part thereof, from the 19th of December, 1816, until paid or brought in, together with the costs of this Court, and the costs in the Court of Appeals, to be taxed by the register. Decreed, that the three negroes Alfred, Cuffee and Eliza, in the proceedings mentioned, be sold, &c. That Thomas S. Alexander be appointed trustee to make the said sale, &c. That the terms of sale be ready money, &c.

From this decree the defendant appealed, and the case having been carried up, and the solicitors of the parties having been fully heard.

BY THE COURT OF APPEALS, June Term, 1831.—Decreed, that the decree of the Court of Chancery, passed in this suit, on the thirtieth day of January, in the year eighteen hundred and twenty-nine, be, and the same is hereby reversed with costs. That ac-