

derstand the nature of the directions which the Court is now called upon to give respecting them.

Judges, all of whom are competent to sit on every appeal from the High Court of Chancery; and the Constitution also declares, that "any three of the said Judges of the Court of Appeals shall form a quorum to hear and decide on all cases pending in said Court." Hence, it would seem, as every decree must be signed, as in the English Court of Exchequer, by every Judge who was present at the making of it, 2 *Fowl. Exche. Pra.* 168, to make a valid decree in equity by the Court of Appeals, it should be signed by at least three Judges. The County Courts are constituted of three Judges, any one of whom is made competent to hold a Court; and, consequently, a decree of a County Court signed by any one of its Judges, because of his being the Court, must be deemed valid.

After various other proceedings, for the principal part of which see 10 G. & J. 67, this case was again submitted for a final determination.

BLAND, C., 13th May, 1836.—It will be seen, by adverting to the proceedings, that the defendant James Tilton, in his answer, relied on two distinct grounds of defence, each of which apparently, covered the whole of the plaintiff's cause of suit as regarded the real estate of the deceased; first, the Statute of Limitations; and secondly, the sufficiency of the personal estate of the deceased to pay all his debts. Considering the reliance upon the Statute of Limitations, if sustained, as an entire bar, it was obviously unnecessary to say any thing as to the sufficiency of the personalty. And, on the reliance upon the statute by this defendant being declared, by the Court of Appeals, to be only a protection of his interest in the realty, it could not be proper, upon any allegation of his only, to call for an account of the personalty, because his interests having been thus fully protected, the taking of any such account, at his instance only, might well be regarded, in relation to all others, as an impertinent and unnecessary interference with the further progress of the case. The same principles apply to the answer of Clara Tilton, who, in her answer, made after she had attained her full age, has, in like manner, relied upon the Statute of Limitations and the insufficiency of the personal estate.

It appears, however, that the defendants Bennett and wife had also, in their answer, relied on the sufficiency of the personal estate and the other appropriated funds. That that allegation of theirs had been distinctly placed, by the record, before the Court of Appeals; and, if available, in any degree, in favor of the realty, seems to have necessarily called for a decree or direction from that tribunal, that an account be taken of the personalty; as usual, in all cases of this kind, where the alleged insufficiency of the personalty or appropriate fund is contested by an heir or devisee.—*Campbell's Case*, 2 Bland, 225; *Hammond v. Hammond*, 2 Bland, 347, 354.—But, as nothing has been said by that tribunal as to any such account, this Court may now, therefore, treat it as a conceded or established fact, that the personal estate of the deceased, including so much of the profits and the sales of his real estate as he had appropriated to the payment of his debts are insufficient for that purpose; and proceed accordingly to direct the real estate indiscriminately to be sold.

The defendant Rebecca Gibson has had her claim, in lieu of dower, under the will of her deceased husband, brought fully before the Court, by the bill of complaint; and, yet she has made default, and still remains silent and passive. The devise to her, in lieu of dower, may be entirely equiva-