

*mine*, received by the trustee. Their claim in this regard rests and has been urged upon the assumption, that the stock sold for so much more as that proportion of the dividends which had then accrued bore to the whole amount thereof, when subsequently declared; an assumption which, I think, cannot safely be made, in view of the numerous causes, more or less fictitious and speculative, which influence the price of such securities.

The case of *Ex parte Rutledge*, *Harp. Eq. Rep.*, 65, resembles the present case in this, that it was a question as to the apportionment of the dividends on bank stock between the donee for life, who died a few days before a semi-annual dividend was declared, and the party entitled in remainder. The Court there decided that the dividend should be apportioned, and the amount which had accrued at the donee's death should be paid to his executor. But in that case the dividend, *as such*, was actually received by the party who was to make the apportionment. There was no sale of the stock, before the dividend was declared, by consent of the parties, and the Court was not consequently required to act upon the assumption that the purchaser gave precisely so much more for it as the dividend then accrued amounted to. That circumstance, as I conceive, separates that case from this by a broad and clearly defined line. The Court there was acting upon a reality. The dividend was in hand, and it was thought, and I think justly thought, that the interposition of Providence, in terminating the existence of the donee for life, a few days before its declaration, should not deprive his representative of that proportion which had accrued in his lifetime.

I have read with attention the deposition of Mr. John F. James, and assuming that it would be proper, in a case circumstanced like the present, to change the existing rule, I should doubt very much the authority of this Court to do so upon the facts therein stated. It seems to me that the ancient, steadily adhered to, and highly sanctioned rule of this Court, should not be varied, unless demonstrated to be erroneous by more conclusive evidence than is furnished by this deposition. This remark is made without intending the slightest disrespect to Mr.