

on the 20th of October, 1844, because certain claims therein mentioned were paid by Henry Brawner, executor of Maddox, not by the trustee, and were not legally proved, and one claim was not legally proved, nor a proper claim against the estate.

In this state of the case, it was transferred to this court on the 18th of December, 1845, and on the 23d of January, 1846, the Chancellor passed an order referring the case to the Auditor of this court, with directions to state a final account, from which he will exclude all claims against which the Statute of Limitations has been relied on, and which appear to be barred, and also all claims which have not been sufficiently authenticated. In pursuance of this order, the Auditor made his report on the 27th of February, filed 4th of March, 1846, allowing expenses and complainant's claim, and distributing the residue between the heirs, but recommending a suspension of the final order until some evidence should be furnished of the widow's claim in lieu of dower, she having agreed by answer to accept the same, and also submitting whether complainant's claim could be allowed.

After the filing of this account, James Brawner died, and his death was suggested on the 17th of July, 1846, and another petition was filed by the heirs, stating the death of the trustee, and that H. W. Dent was his executor, and praying that he might be made a party to the suit, upon which the Chancellor passed an order on the 18th of the same month, that the said Dent bring into court all sums of money which may have come into his hands, or into the hands of his testator, by virtue of the trust, or show cause to the contrary.

The claim of the widow ought to be no obstruction now to the final adjudication of this case. She was a party to the suit consenting that the land should be sold clear of dower, and it was her province to present proof by which the amount of her allowance might be ascertained, and she has had ample time, both before and since the Auditor's report, to do so, and having neglected it, the case cannot be retarded further on that account. The complainant's claim, as stated in the bill, is ascertained by the decree, and cannot now be disputed. The