

to give for the land in 1839, which is stated to have been about thirty thousand dollars.

My opinion, however, is, that this is not the true standard. The land may have appreciated or depreciated in value very much, between the purchase by Berry, and the death of the complainant's husband; and it is the value of the land at the time of the death, which is to be regarded, and not its value at the time of the alienation, unless its increased value has arisen from the labor and money of the owner.

After examining the authorities upon this question, Chancellor Kent comes to the conclusion, "that the improved value of the land, from which the widow is to be excluded in the assignment of her dower, as against a purchaser from her husband, is, that which has arisen from the actual labor and money of the owner, and not from that which has arisen from extrinsic or general causes." 4 *Kent's Com.*, 68.

But the answer in this case takes the ground, that as Mr. Bowie had but an equitable title to this land when he sold to the defendant, he is entitled, upon the condition of the bond of conveyance, to give him a clear title, to have the payments made by him to Bowie, and which were applied by the latter to the obtention of the legal title set off or discounted from the complainant's claim to dower.

If Mr. Bowie, while he held but an equitable title, had sold and transferred that title to the defendant, the claim of dower could not be supported, it having been decided by the Court of Appeals, that if the equitable title is parted with by the husband in his lifetime, the widow shall not be allowed dower. *Miller vs. Stump*, 3 *Gill*, 304.

But this was not done; on the contrary, Mr. Bowie, four years after he contracted to sell the land to the defendant, took the deed from his vendors to himself, because the defendant had not then paid the purchase money, a part of which, it is understood, is even yet due.

This is the case, then, of a husband dying seized of the legal title; and, therefore, it would seem that the dower claim cannot be defeated, either directly or indirectly, in the mode pro-