

No 4302 Equity

"The claim of a widow for dower is a highly favored one, and with respect to a devise, accepted by her in lieu of it, she is by the terms of the Act of Assembly, and by judicial decision, regarded as a purchaser for a fair consideration". Mauzy vs Buchanan 1 M. d. Ch. Dec. 205.

Whether the bequest is expressly given in lieu of dower, or the bequest merely be given, and the widow accept, and thereby bars her right of dower, makes no difference, as the effects in either case, is the same. The devise or bequest in either case, possesses the same characteristics, is entitled to the same consideration and equally favored in law. "A widow, to whom a general bequest is made by her husband in lieu of dower, is a purchaser of that which she takes under the will with a fair consideration. A general bequest to a widow, in lieu of dower, accepted by her stands upon a different footing from other general legacies merely voluntary. It will be entitled in payment of it, to a preference over such general legacies, even when the amount of the bequest exceeds the value of her dower"

Hunham vs Rhodes, et al. 23 M. d. 242

In Gibson et al vs McCannick, 10 f & f 113 & 116 the Court of appeals, in speaking of a devise, or bequest to the wife in lieu of dower, says, where there is no intimation in the will, or proof in the cause, that the provision made for the wife by the will is fraudulent, or being greater than the value of her common law rights, and therefore unjust and injurious to creditors, she is then justly entitled to the benefit of all the bequests and devises made to her by the will as a purchaser for a fair consideration". In the case now before this Court, the widow has agreed to accept the bequest of eight hundred and fifty dollars, which bars her right of dower in the estate; and the bequest evidently being intended by the testator, in lieu of her dower, she must be considered and treated as a purchaser for a fair, or good, consideration.

The Court will therefore, make an order allowing her the whole amount of her legacy, out of the proceeds of the sale of the real estate.

It is thereupon this 19th day of June A. D. 1879, by the Circuit Court for Frederick County, as a Court of Equity, and by the authority thereof adjudged, ordered and decreed that this case be, and the same is, hereby referred to the Auditor of this court, to state an account, and the auditor is hereby, directed out of the proceeds of the sale of the real estate, after allowing, costs, expenses and trustees' usual commissions, to allow, and audit to Mrs Mary Pughman, the widow, the full amount of her legacy of eight hundred and fifty dollars, and then distribute the balance, pro rata among the other legatees, named in the said last will of Daniel Pughman, deceased.

John A. Lynch
Judge of the Cir. Court

Filed June 19, 1879

Mary Pughman et al
vs
Joseph Fox and wife et al

No 4302 Equity
In the Circuit Court for Frederick
County in Equity

To the Honorable the Judge of the Circuit Court for Frederick County
as a Court of Equity,

The second report of the Trustees in this cause respectfully states, that

Courts Order
allowing
widow her
Legacy in
full

Trustees'
2d Report