No. 6478. Equity.

was liable, and the insufficiency of the residue of his estate primarily applicable to the payment of his debts, funeral expenses &c for the payment thereof in time to make an intelligent election between her dower and part at law in the personal estate of said decedent and the device so as aforesaid made to her by said testator in lieu thereof within the period prescribed by law even if she had been willing or desirous so to do, yet your respondent further answering says that she is advised that while it was her privilege to renounce said device or legacy so as aforesaid made to her in lieu of her dower right and part in said personal estate and take her dower right and part in said personal estate instead of said device to her, yet it was not incumbent upon her to do so in order to secure and protect her rights in said property and estate of said decedent, that the law does not contemplate, in any event, that she should be deprived of her rights by reason of her failure to renounce said device within the period limited for such renunciation, that said device to her would be valueless if her life estate thereunder were liable to sold for the payment of her said husbands debts and the liabilities are by his estate, that the law is not intended to be used as an instrument for the perpetration of such injustice, fraud, wrong and injury to her but that she is entitled to accept and elude by said device in lieu of her dower and part at law in the personal property of said decedent) it being expressly provided in section 295 of article 93 of the Code of Public General Laws of Maryland, title "Intestacy law" sub title "Widows &c. Follows:

"But if in effect nothing shall pass by such device, she shall not be thereby barred whether she shall or shall not renounce as aforesaid, it being the intent of this Article and consonant to justice, that a widow accepting or abiding by a device in lieu of her legal right, shall be considered a purchaser with a fair consideration".

And your Orator being so as aforesaid advised hereby asserts and claims her rights as such widow accordingly.

3rd. And further answering said Bill of Complaint this respondent says that she is not willing to consent to the passage of a Decree by your Honorable Court for the sale of the real estate sought to be sold in these proceedings free and clear of her said estate therein and accept a proportion of the proceeds in lieu thereof, and doubts if it would be possible for her to do so under the conditions of said will without forfeiting all of her rights; that she is advised and insists that said real Estate so sought to be sold can only be sold subject to her said life estate therein, that she is further advised and believes that if sold subject to her said life estate therein and subject also to said charge thereon in favor in favor of said testator's grand daughter, Alice Blanche Thomas, that it would not bring enough to pay the expenses of these proceedings and the debts owing by said testator's estate, that your orator is advised and believes that it would be competent and right for your Honorable Court to decree a sale of said real estate subject to her said life estate therein and free and clear of the charge so as aforesaid attempted to be put upon it by said testator for the benefit of his said grand-daughter and make the Bill of Complaint