

by order or decree. In *Mildred v. Neill*, the decree reserved one-third of the lands to the widow for life. In *Ewing v. Ennals*, the lands were sold subject to the widow's dower.

If the widow elects to take a portion of the purchase money, she may apply by motion or petition, accompanied by the deposition of some disinterested person as to her age and condition. Where the widow is herself the complainant her written assent is not necessary, *Williams' case*, 3 Bl. 156.

Chancellor Bland observed in this case, that "the legislative rule now in force in regard to dower directs, that where lands are sold for the benefit of infants, or where the real estate is sold to save the personalty, or where the real estate of an intestate is sold under the Acts to direct descents, no more than one-seventh nor less than one-tenth of the net proceeds of the whole estate shall be allowed in lieu of dower. As to all cases of dower not embraced by the legislative rule, the Court is governed by its own rule."¹⁸ By the 32d section of Art. 16, above cited, it is provided that the allowance shall not be more than one-seventh, nor less than one-tenth of the net proceeds as may be just and equitable according to the age, health and condition of the widow. As to the circumstances admitted in discussion of these questions, see *Abercrombie v. Riddle*, 3 Md. Ch. Dec. 320. In *Goodburn v. Stevens*, 1 Md. Ch. Dec. 420, it was held that the age of the widow at the death of her husband should be taken* in fixing her allowance under the Chancery rule. In this case twenty years had elapsed between the death of the husband and the sale. In *Williams' case*, Chancellor Bland, however, said that the valuation of the life-interest is to be made as of the day of the sale by which it is extinguished, and the age, &c. of the particular tenant should be shewn as of that day. The practice is supposed to be, that she is entitled to an equivalent for the value of her dower at the time it is assigned and rents and profits for time past if she so elects.

With regard to arrears of dower before the sale, it seems that the widow, where her title to dower from the death of her husband is clear, is entitled to be allowed for them. As to whether she may recover interest on these arrears, see *infra*, Stat. of Merton, c. 1.

It is provided in the Code Art. 16, sec. 73,¹⁹ that a court of equity may with the assent of the guardian of an infant or the trustee of a lunatic, and the consent of the other persons of full age and sound mind who may be interested, decree the sale of the real estate of such infant or lunatic, to save the personal. In *Waring v. Waring*, 2 Bl. 673, Ch. Bland held, that the widow was entitled to dower out of the real estate sold, or to an equivalent allowance out of the proceeds; but the heirs by application of the real estate descended to pay the debts of their ancestor in order to save the personalty become purchasers of the personalty as against all but creditors, and consequently the widow could have no claim to any part of it.

Art. 16, sec. 33²⁰ of the Code provides that in all suits by joint owners to sell lands, the Court may decree a sale free from the claim of dower by

¹⁸See Rule 25 of Equity Courts of Baltimore City.

¹⁹Code 1911, Art. 16, sec. 101.

²⁰Code 1911, Art. 16, sec. 45.