

wise, she shall not thereby be barred, whether she renounce or not, "it being the intent of this Article and consonant to justice, that a widow, accepting or abiding by a devise in lieu of her legal right, shall be considered as a purchaser with a fair consideration."

These provisions have made material changes in the common law. The Court of Appeals in *Collins v. Carman*, 5 Md. 503, observed that "under this Act, when a man dies leaving a will making *valid* gifts of real and personal estate to his wife, she has not, as she had at common law, a vested right to dower in his land or to a legal share of his personalty, but her vested rights are under the will by virtue of the Statute law. The law clearly gives the husband the power by his will to bar or extinguish the common law rights of his widow, unless she thinks proper to quit all claim to the property conferred on her by the will. And to effect the husband's object the wife need not declare her assent; if, however, she desires to defeat it, she must manifest her intention to do so by an express dissent. Such dissent is an act which, by the very terms of the law, must precede her becoming entitled to or vested with those rights which she might have claimed but for the will; for the Act declares she shall be barred of those rights if she does not renounce and quit claim to the devises and bequests, and make her election to take in lieu thereof her dower or legal share of the estate. It is this election which vests in her the right of dower or legal share in lieu of what the will had given." And again, "where a will makes valid gifts to a wife, then, under our Statute, she has no such common law rights as render her *voluntary assent* to the will necessary to bar or defeat them; the law itself creates \*the bar unless, being dissatisfied with 307 the will, she actually renounces it, and her positive dissent confers upon her just such portions of the estate as she could have claimed had her husband died intestate."

In this case the husband had devised to trustees a lot, house and furniture, to be used by his wife during her life, and also that the trustees should pay to his wife's niece \$50 per month, for the expenses of all the comforts and necessaries that should be necessary for the family of his wife. The wife had been insane some time prior to her husband's death, and so continued until her decease, which occurred more than four years afterwards, during which time she had enjoyed the benefits of the devises in her favour. On her death her administrator filed a renunciation of the devises made for the benefit of his intestate, and afterwards filed a bill to obtain a decree declaring the renunciation effectual, and for an account of the husband's personalty and of the rents and profits of the realty.

The Court determined that this devise being for the use of the wife was clearly within the Act, that the language of the Act included every widow, whatever were her age or mental condition, and that the right to renounce was a privilege personal to the widow which her representatives could not exercise. This latter point had been previously determined in *Boone v. Boone*, 3 H. & McH. 95, in construction of the Act of 1729, ch. 24, sec. 10. The Court declined to intimate any opinion, whether a Court of Equity could or not make an election for an insane widow during her life and in proper time. It seems clear from the approval by the Court of the case of *Lewis v. Lewis*, 7 Ired. 73, that *the committee* of an insane widow could not dissent for her, and for the reason, that there is no proviso or saving