

These circumstances and this letter fortify the construction I have put upon the agreement S. M. The plaintiff's agreeing to dismiss her bills, as to the Fountain Inn, and also to submit to the payment of costs, is satisfactorily accounted for. It thus clearly appears, that so far from relinquishing any right, she then merely withdrew from before the tribunal, with a fixed resolution to return to the contest at a more convenient season; unencumbered with matters which might be then disposed of and finally adjusted.

It is, therefore, my opinion, that neither the institution and termination of those suits, nor the agreement S. M., can in any manner whatever be considered as a bar, or release of the right now asserted by this plaintiff.

The next question is, whether the late husband of the plaintiff had an estate in the Fountain Inn during their marriage, of which she is dowable. It is admitted on all hands, that the legal estate in fee simple of this property was originally in Harry D. Gough; all who are any way concerned in this controversy deduce their interests from him; and, consequently, the only question now is, whether James Clarke, to whom Gough conveyed, and the late Samuel Chase, to whom Clarke conveyed, held as mortgagees from Bryden, or any one else; or whether Clarke, and from him Chase, obtained an absolute indefeasible legal estate in fee simple, or only an equitable interest.

It appears, by the recitals in the conveyance, dated the 4th of February, 1806, from James Clarke to the late Samuel Chase, that Harry D. Gough, who was seized of an estate in fee simple in the land covered by the Fountain Inn, had agreed to sell it to Daniel Grant, and give his bond with a condition to convey it to him when he paid the purchase money. Grant sold his interest, and assigned this bond to James Bryden; and James Clarke and John Smith became Bryden's sureties for the payment of the balance of the purchase money due to Gough, and also for the sum which he had agreed to pay Grant. Bryden paid and satisfied Grant in full. Then Clarke, it is said, at the request of Bryden, paid Gough \$7,216.42, the amount then due to him; who thereupon conveyed the fee to Clarke; and Bryden delivered to Gough his bond. After which, at the request of Bryden, the late Samuel Chase paid Clarke the sum he had paid to Gough, and also paid to Bryden the sum

224 of \$10,283.58; amounting altogether to the sum of \$17,500. * Whereupon Clarke conveyed to Chase an absolute estate in fee simple. On the twenty-sixth of the same month, in which Chase had obtained this conveyance, he leased the property to Bryden for the term of fifteen years, reserving an annual rent of \$2,000; to which lease Chase's wife, the present plaintiff, added her relinquishment of dower in the usual form. And on the same day on which the lease bears date, Chase executed his bond to