

There can be no doubt, that long antecedent to the amendment in 1800, of the Act to Direct Descents, there must have been brought before the Courts of justice many cases in which it was necessary to make a valuation of a life interest; but no such case has been reported. In a case which was brought before this Court in the year 1801, by a widow to obtain an allowance of a proportion of the proceeds of sale as a compensation for her dower, the Chancellor speaks of it as the first of the kind, within his recollection. In adjusting the proportion of the proceeds of the sale to be allowed to her in that case, he declares, that as she could not use her third part of the land as tenant in fee simple, she could not be entitled to one-third of the annual interest on the whole purchase money; but on consideration of all the circumstances, and without apparently adverting to the Act providing, that in cases arising under the Act to Direct Descents, the widow should be allowed not more than a seventh nor less than a tenth of the proceeds of sale, he awarded to her three-twentieths of the net proceeds of sale. *Maccubbin v. Cromwell*, 2 H. & G. 457. (y) Some

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(y) *CASSANAVE v. BROOKE*.—This petition, filed on the 29th of October, 1799, stated, that the petitioner was the widow of Peter Cassanave, who died seised of a large real estate in which she was entitled to dower; the whole of which, at the suit of the creditors of her husband had been sold for the payment of his debts; that the defendant Samuel Brooke, as trustee, had sold it, under a decree of this Court, discharged of all claim of dower; and under that representation, it had been purchased by the then holders from the trustee. Therefore to quiet their titles; and that justice might be done to all, she prayed, that she might be allowed a proportion of the net proceeds of the sale in lieu of dower.

This petition was on the 29th of October, 1799, endorsed thus by the Chancellor. "Issue subpoena returnable immediately." After which the trustee answered on oath and admitted all the facts stated in the petition.

*HANSON, C.*, 21st May, 1801.—The said cause being submitted on the bill or petition and answer, the same were by the Chancellor read and considered.

This is the first case ready for decree, that the Chancellor recollects in which it has been left to him to ascertain the proportion, which a widow is entitled to, on account of her dower, of the money arising from the sale of the whole interest in lands of which her husband died seised in fee having a legal title.

Inasmuch as she could not use her third part of the land as a tenant in fee simple might use it, it appears, that when the land is converted into money she cannot be entitled to the full present value of a third part of the annual interest of that money for life. The interest in the land which she parts with is such, that she cannot sell the timber off the land as a tenant in fee might do. The value then of the privilege of selling timber, &c. is to be taken into the account.

Upon the calculation which the Chancellor has made, on the principles adopted in Europe for ascertaining the present value of all interests in land, and on making a reasonable deduction on account of the aforesaid privileges, it appears to him, that the right of dower of a healthy woman, thirty years