

that their interest is antagonistic to those who make the application to the Court. Under these circumstances, I do not see how the prayer of the bill can be granted.

The reference to the Acts of 1816, ch. 154, and 1818, ch. 193, and the incorporation of their provisions into the Act of 1831, under which the bill is filed, in my judgment, deny to the Court the power to demise permanently property situated as this is, when from the evidence it appears that though the interest of some of those in whom the title resides, will be promoted, the rights of others in the same property will be injured. It would, in my opinion, have been a stretch of authority in the legislature, to authorize the disposition of the property, in which several were concerned, upon the ground that some would be benefited, whilst others would be damaged; and I am aware of no law by which they have ever attempted to do so. By the 12th section of the Act of 1785, ch. 72, which authorizes the Court to direct the sale of lands in which, from infancy, or other incapacity, some of the joint owners are unable to agree, it is carefully provided that the power shall only be exercised upon its appearing that it will be for the interest and advantage of all parties, and I am not aware of any law in which a provision so manifestly just has been omitted.

It is to be regretted, certainly, that this conflict of interest should exist, but when it does exist, why should the law interpose to benefit one owner at the expense of another? I shall, therefore, dismiss the bill in this case, but as it is one of the first impression, and is not without equitable circumstances, it will be without costs.

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LATROBE, for Complainant.

PBATT, for Respondents.