

the case back to the Auditor, for the purpose of reporting upon this point, and with directions to ascertain how much is now due from the administrator for cash.

When this report comes in, a decree can be passed directing the payment over to the present guardian of the cash, ascertained to be due from the administrator, and providing for the payment of future collections as they are made, and reserving liberty to the complainant to apply to the Court for such order or decree on the mortgage, as the exigencies of the case may require.

FRANK H. STOCKETT, for Complainant.

A. RANDALL, for Defendant.

MARY F. ABERCROMBIE AND OTHERS,

vs.

ROBERT RIDDLE AND OTHERS.

} DECEMBER TERM, 1850.

[RULE FOR ASCERTAINING THE PRESENT VALUE OF A LIFE INTEREST.]

THE ancient rule of the Court, fixing the allowance to a woman in lieu of dower, applies in all cases where it becomes necessary to ascertain the present value of a life interest.

This rule having been sanctioned by the Court of Appeals, in the case of *Dorsey vs. Smith*, 7 H. & J., 345, the authority of this Court to change it is questionable; and even if it could do so with propriety, the change should be prospective, and not so as to affect an actually depending case. The Courts have no dispensing power over their rules and long established practice, and the party to whose prejudice an innovation upon the rule of Court is made, has a right to seek redress in the Appellate Court.

This rule has reference to the case of a healthy person, and where the *cestui que vie* is of infirm health, an abatement of the allowance must be made therefor; this is as imperatively required by the rule, as the ratio of distribution prescribed by it.

The *cestui que vie* was fifty-three years of age at the time of sale, and it was proved that her health was infirm, that her constitution never had been robust, and that her lungs were diseased. HELD—that five years was a sufficiently large addition to her age, on account of ill health.