

THE CHANCELLOR :

This case having been submitted upon exceptions to the report of the Auditor, the proceedings have been read and considered.

It is assumed that the property sold by the trustee consisted of that portion of the real estate of Jarrett Hutchins, which he acquired under the will of his father, Thomas Hutchins, lying in Baltimore County, and that the land lying in Harford County remains unsold. The will describes the land in Baltimore County as containing one hundred and twenty-six and one-quarter acres, and the trustee sold one hundred and twenty-six and one-half acres. It is, therefore, assumed to be the same land, and, indeed, such I understood to be the statement of the solicitors of the parties, when they appeared before me.

The devise to Jarrett Hutchins is in the following terms: "I will and bequeath unto my son Jarrett, my farm, whereon I now reside, lying and being in My Lady's Manor, containing one hundred and twenty-six and one-quarter acres, more or less. Also, my farm in Harford County, to him and his heirs and assigns for ever, on condition that he, the said Jarrett Hutchins, shall keep or otherwise maintain his mother during life, or so long as she may remain single; and it is, moreover, my desire that the said Jarrett do and shall provide for my daughters, Elizabeth and Susan, good and sufficient boarding and comfortable clothing, so long as they may remain single."

It is not denied that this clause in the will operates as a charge upon the real estate devised to the son of the testator, and since the case of *Tolson vs. Tolson et al.*, 10 G. & J., 159, it would be impossible to deny it. And as the decree in this case reserves to the said Elizabeth and Susan Hutchins the right to claim such proportion of the proceeds of the sale as they may be entitled to in lieu of such charge, the Court is now called upon to say what that proportion will be.

The evidence shows that the board and clothing of Elizabeth Hutchins is worth not less than \$150 in Baltimore County *per annum*, and that she is about seventy years of age. Taking