

was to credit him for his half thereof upon a settlement of their dealings. That said Chapman was in possession of the whole of this land up to the time of his death, in 1825, renting the same, and receiving the rent therefor; that Morris never claimed any part of it until after the division of Samuel Chapman's estate, in 1827, by which this land was allotted to the complainant, Etheldra, the wife of Harris.

Elizabeth Chapman proves that upon one occasion Morris came to her husband's residence, and had some conversation with him in reference to this land. That witness understood, from what passed between them, that Morris was to have one-half of the land for his trouble, and that her husband was to pay Morris for his half by giving him credit for it. This occurred long after the land was taken up. Her husband held possession of the land from the time it was taken up until his death in 1825.

The defendant objected to the testimony of both these witnesses, upon the ground of interest in the result of the suit, the former by reason of being one of the heirs at law of Samuel Chapman, and entitled to a moiety of his real estate; the latter as being the widow of the deceased, and entitled to dower in his real estate.

The division of the estate of said Chapman referred to in the proceedings, was effected by a deed of partition, executed on the 3d of October, 1832, between John G. Chapman and Harris and wife. This deed is to the purport following: after reciting that the parties, John G. Chapman and Etheldra Harris, hold, as tenants in common, in equal shares, the lands of which they are seized in fee as the heirs at law of Samuel Chapman, and that they have agreed to divide and hold their respective shares in severalty, it is thereupon covenanted, granted and agreed by and between them, that each shall hold, possess and enjoy in severalty the respective portion allotted by said partition, and which each of them, by the said deed of partition, doth grant, release and confirm to the other, with the *mutual* covenant and grant, that each party shall forever peaceably, quietly have, hold, occupy, &c., free and discharged