

for the purpose of following out the equity established in substance by the decree.—Strike's case, 69.

DISCOUNT.

The nature and origin of discount in bar; discount, recouper, and set off, in principle the same.—Strike's case, 79.

A claim for rents and profits may be set off against that for improvements made by a *bona fide* possessor, 79.

But a wrong doer cannot place himself in a situation to obtain a discount, 80.

DOWER.

Dower assigned by commissioners appointed to make partition under the act to direct descents.—Hughes' case, 47.

A widow who elects to take the estate devised to her in lieu of dower, is to be deemed a purchaser for a fair consideration to the value of her dower, and must have her claim sustained as a lien to that extent in preference to creditors.—Margaret Hall's case, 203.

If the husband had before marriage made a lease for years reserving rent, the wife might have been endowed of the reversion and of the rent from the death of the husband; but if no rent has been reserved, then of the reversion only with a *cesset executio* during the term.—H. K. Chase's case, 227.

If husband and wife join in making a mortgage, her dower can be affected only to the extent of the mortgage, and she may call upon the personal representative of the husband to discharge the mortgage, 227.

If the wife join in levying a fine, or in acknowledging a deed under the act of Assembly to make a lease or mortgage, her dower can be affected only so far as may be necessary to give it validity according to the express extent of the fine or deed, 228—231.

In equity the widow may have an account of the rents and profits of her dower from the death of her husband, and costs if her claim be opposed, 231.

The widow can only recover according to the actual value, and will be allowed interest on the rents and profits as they accrue, 231.

Upon a decree for dower there can be no sequestration of the two-thirds to satisfy the claim for rents and profits, although they may be taken like any other property under a *feri facias*, 232.

Where the property is incapable of division, dower may be given in the form of a rent distrainable of common right, 233.

The form of an interlocutory decree for assigning dower in a single house, 234.

On a sale to effect a division, a portion of the proceeds may be awarded to the

widow in lieu of dower.—*Spurrier v. Spurrier*, 477.

ELECTION.

Where a testator devises a part of his estate to one who has a claim upon it independently of him, the devisee may be put to his election, and shall not have both.—Hall v. Hall, 134.

But the intention must be distinctly expressed or strongly manifested, or it must appear that the claim is irreconcilable with the devise, or that to sustain the claim would throw the testator's estate into a different channel, 135.

EQUITY.

That which might have been ordered, when fairly done may be confirmed: as where land devised to be sold was sold by the executor under an apprehension that he had been authorized to do so, the sale was confirmed.—*Ex parte Margaret Black*, 142.

Where by agreement a judgment is entered, to allow for payments, or upon a verdict obtained by surprise or mistake, equity will relieve.—*Chase v. Manhardt*, 348.

EVIDENCE.

Depositions taken before the revolution under the statute of 5 Geo. 2, c. 7, received and read.—*Rawlings v. Stewart*, 22.

Where a deposition or affidavit is on affirmation, and the person taking it does not certify, that the affirmant is a quaker, &c. the deposition or affidavit can be of no avail.—*Ringgold v. Jones*, 90.

There is no publication of depositions, but all objections are open and may be taken at the hearing.—Strike's case, 96.

The commissioners may summon witnesses to testify, and on the commissioners certifying that the witness failed or refused to attend, an attachment against him may be ordered.—*Bryson v. Petty*, 132.

A solicitor cannot be permitted to divulge the secrets of his client without his consent, and if he be not a party to consent the solicitor must remain silent.—H. K. Chase's case, 222; *Hodges v. Mullikin*, 509.

On bill or petition on oath in the same case, a commission may be granted to take the testimony of an aged or infirm witness *de bene esse*.—*Lingan v. Henderson*, 238.

An objection before the commissioners that the evidence is not such as is required by the statute of frauds, if that statute be not relied on as a defence, cannot be allowed, 249.

A receipt is not in all cases conclusive,