

marshes of the Chesapeake Bay, as in the mountains of Allegany? These observations will be found to be verified by an examination of Dr. Halley's tables, as suited to different parts of England, and to places on the continent. Whether these tables, upon which the Chancellor's decree is founded, are suitable to this State, could only be told by a long series of observations here, which not  
**275** \* having been made, we conceive it would be unsafe to adopt them. In ascertaining the value of this legacy at the time of its purchase, we apprehend, there would be a much better chance of justice being effected by applying by analogy the rule adopted, long since, in the Court of Chancery, for the purpose of ascertaining the allowance to a woman, in lieu of her dower in land sold under a decree of that Court. Mrs. Dorsey is shewn to have been about forty years of age at the date of the purchase, and the calculation should be made in conformity with the above rule. By such calculation the legacy was worth the sum of \$761.90. With this value the appellants should be credited on the day of the purchase of the legacy." *Dorsey v. Smith*, 7 H. & J. 366.

The manifest discordances of the rules which have been laid down, or adopted for the government of this Court, in cases of this kind, require some further remarks. The legislative rule, in regard to dower, which directs that, in certain specified cases, not more than one-seventh nor less than a tenth of the net proceeds of the sale of the whole estate, shall be awarded to the widow in lieu of her dower, fixes an arbitrary limitation, the reason of which is not apparent. As early marriages in our country are common, there must be many instances of young widows; and consequently, this legislative rule must embrace all cases of widowhood from fifteen to eighty years of age; with an expectation of life, according to Finlaison's tables, ranging from forty-seven to no more than six years; and yet, bound by this rule, the Court can, on the one hand, award to the life of forty-seven years expectation no more than a seventh; and on the other must give to the life of only six years expectation, not less than one-tenth of the whole net proceeds of sale. This rule thus appears from itself to be in many of its bearings unreasonable and unjust.

In all inquiries as to the present value of a life interest in real estate, it is indispensably necessary to bear in mind the distinction between the interest of the particular tenant, and that of him in remainder or reversion; and also to take especial care, that neither should have awarded to him any thing which may properly be considered a part of the value of the estate which belongs to the other. Thus, supposing the whole estate were sold for \$9,000; that sum would represent the entire value of the whole, including both interests, as well that of the tenant in dower, who