

able conclusion that he uses the words "my estate" throughout in the sense of "my whole estate," which is also their natural meaning. That being so, it follows that when he speaks of "her dower of one-third of my estate," he is not using the word "dower" in the technical sense which would limit it to realty.

We have thus a non-technical word used, the quantity of which—one-third of his estate—the testator here indicates, and we find that that one-third does not cease with the wife's life, but, as shewn in the subsequent dispositions in the will, is a permanent reduction of the corpus of the estate, and we are driven to the conclusion that the word "dower" is used in the sense of a gift or endowment (vide *Imp. Dict.* sub "Dower," 4) of one-third of the whole estate absolutely to the wife.

Against this conclusion Mr. DuVernet urged that the technical word should receive its ordinary technical construction, and argued with much force that the dower is coupled by the testator with debts and expenses, shewing in his mind a contemplation of only those paramount claims which must, in any event, come out of his estate and override any disposition he might make, and evincing an intention of dealing with his estate only subject to these claims. . . . I was much impressed by his argument, to which, it must be said, much colour is lent by the fact that there is not a direct but only an implied gift to the wife of the dower, and that it is not the only endowment or gift provided for her. I am not unmindful also of the consideration that the testator may well have contemplated a sale of his lands subject to her dower, or the payment to her of its value out of the proceeds of sale, thus leaving a "balance" to be disposed of. But the conclusion at which I have arrived is, I think, more concordant with the various expressions and dispositions in the will.

It was said . . . that the estate is small (under \$3,000), about one-third being personalty. That would not render less probable an intention to make such a provision for the wife as I have attributed to him.

It will be declared that under the will the widow is entitled absolutely to one-third of the proceeds of the real and personal property of the testator after payment of his