

The inference need not be beyond possible doubt, but it must be so strong as to be beyond reasonable doubt. That is to say, the inference must be so strong as to fully authorize its being acted upon in a contest between the parties claiming under the same will.

To adopt the reasoning in *Re Hurst*: "Am I able to find in this will, or gather from its provisions, that it was the intention of the testator to dispose of the lands, other than" (the lot at Berwick) "in a manner inconsistent with the wife's right of dower in these lands? Do the provisions of the will shew clearly and beyond reasonable doubt that it was the positive intention of the testator, either clearly expressed or clearly to be implied, to exclude his wife from dower?"

The debts and funeral and testamentary expenses were to be paid.

There was not sufficient personalty to pay these.

These executors were given the power to sell both the real and personal estate for the purpose of paying the bequests, and of investing the funds in a chartered bank or in first-class securities—interest on said funds to be used for making annual payments to his wife.

It seems quite incredible to me that such safe and careful provision should be made for the widow unless the testator intended that this provision should be in lieu of dower.

A claim for dower must necessarily tie up the property and prevent that being divided.

The whole estate will not be sufficient to pay all the debts and legacies if the widow is entitled to dower.

1. In my opinion the widow must be put to her election. She is not entitled to dower out of lands of deceased in addition to the provision made for her by the will.

2. The widow is entitled to a lien upon the whole estate of the testator, to secure her the amount of \$200 a year.

It will be noticed that the lien is upon the whole value of the estate. As the annuity is only during the widowhood of Jessie, it is difficult to plan an investment safe for the widow and not onerous for the others entitled.

With the assistance of the official guardian acting for the infant, some suitable settlement can probably be arrived at.

3. The widow is entitled to look to the corpus if necessary to make up a deficiency if the income is not sufficient.