

If the widow has sold any slave she must account for the value without interest. Such articles as were likely consumed in the use I have marked with the figure (2) as marked with the letter (B.) If the widow has bought cattle, horses, farming utensils, furniture, pleasure carriages, or any thing else she is entitled to them absolutely. I refer to 10. Leigh 628.

I have formed the following opinion on the several questions arising under the will of Thomas Vaughan dec'd. and which has been submitted to me as umpire by Col. J. R. Chambliss and John R. McQueen. My opinion is that Mrs. Vaughan, on her subsequent marriage is entitled to the same proportion of her husband's estate as if he had died intestate, viz. to one third of the land and share for life, and one third of the personal chattels and money in fee simple. I think that the widow is entitled to the crops of all kinds now made and raised during the year of her marriage and all that she has made from the property held in her possession, since the death of her husband, but that she must account for the value without interest, of the crops of corn, fodder, hay, &c. which she took in her possession at the time of her husband's death.

The principle of law, that a general bequest of personal property consumable by the use does not give to the tenant for life an absolute interest is strengthened in this case by the clear intention of the testator not to give his widow any absolute title to his property. That on her subsequent marriage she was only to have such a proportion of his property, obviously intending to exclude the property advanced as the law would allow her if he had died intestate. If he had died intestate of course she would only have been entitled to one third of it, and this is all that I think she is fairly entitled to under the will. In the case of 10. Leigh 628 referred to by Col. Chambliss the above principle of law was not denied, but recognized by the Court, and the Comptroller and Court seemed to rely mainly upon the intention of the testator in his will, and not only the language of the will, but the situation of the testator's family, was relied upon to show his intention. In this case the language of the will and the situation of the testator's family are entirely different.

My opinion is that Mrs. Vaughan is entitled to one third of the land in fee simple which was purchased by her with money belonging to her husband's estate. During the time the widow kept possession of the property under the will, she was bound to furnish the children with board and clothing, but she is not chargeable with clothing and such.

With the opinion of Col. Chambliss, not conflicting with the above views, I remain an adept as my own as umpire in this case. Wm. McCall.

Witness my hand and seal in the County of Southampton the 17th day of November 1858. This account of Leonard C. Webb Commissioner in the estate of Thomas Vaughan dec'd. and the distribution account was returned on file of the Court at a Court held in the County of Southampton the 17th day of December 1858. The said account having been one month and upwards in the Clerk's office, and there being no exceptions thereto, was examined and found to be correct. Geo. L. Edwards, C. C.