

brought a Writ of Dower, and was barred of her Dower, and the Reason yielded in the Record [a] is this, Quia vero contra iustitiam est, quod ipsa dotem petat vel habeat de Tenemento quod fuit viri sui ex quo in conversione sua noluit cum eo adherere & cum eo converti.

[a] Dors. claus. 18 H. 3. m. 17.

¶ Del tierce part de tiels Terres & Tenements per severaltie per metes & bounds. Albeit of many Inheritances that be entire, whereof no Division can be made by Metes and Bounds, a Woman cannot be endowed of the Thing it self, yet a Woman [b] shall be endowed thereof in a special and certain Manner. As of a Mill a Woman shall not be endowed by Metes and Bounds, nor in Common with the Heir; but either she may be endowed of the third Toll-dish, or de integro molendino per quemlibet 3. mensum. And so of a Millain, [c] either the third Day's Work, or every third Week or Month. A Woman shall be endowed of the third Part of the Profit of Stallage, of the third Part of the Profits of a Fair, of the third Part of the Profits of the Office of the Marshallea, of the [d] third Part of the Profits of the Keeping of a Park, of the third Part of the Profit of a Dove-house; and likewise of the third Part of a Piscary, [e] viz. tertium piscem, vel jactum retis tertium. Of the third Presentation to an Abbodowson. A Writ of Dower lies de 3 parte exituum provenientium de custodia gaolæ Abathie Westminster. And therewith agreeth reverend Antiquity. De [f] nullo quod est sua natura indivisibile, & sectionem sive divisionem non patitur, nullam partem habebit, sed satisfaciatur ei ad valentiam. Of the third Part of Profits of Courts, [g] Fines, Veriours, &c. Also a Woman shall be endowed of Tithes. And the surest Endowment of Tithes, is of the third Sheaf, for what Land shall be sown is uncertain.

[b] Bract. 1. 2. f. 97. b. 23 H. 3. tit. Aff. 435. F. N. B. 149. 44 E. 3. Dower 50. Post 165. a.

[c] Brit. 247. 11 E. 3. tit. Dower 85. 15 E. 3. Ibid. 81. 2 E. 3. 57. 2 Cro. 621.

[d] 4 E. 2. Tr. 233. 26 E. 3. 58. 45 E. 3. Dower 50.

[e] Bract. 98, 208. Brit. 247. Flet. lib. 5. c. 23. 17 E. 2. Dower 104, 163. 16 E. 3. Quar. Imp. 154. 7 E. 3. 7.

[f] Bract. 97. Brit. 146, 147.

[g] Lib. 11. fo. 25, 26. Harper's Case.

[h] 26 Aff. 3. 8 R. 2. Dower 184.

But in some Cases of Lands and Tenements which are divisible, and which the Heir of the Husband shall inherit, yet the Wife shall not be endowed. As if the Husband [h] maketh a Lease for Life of certain Lands, reserving a Rent to him and his Heirs, and he taketh a Wife and dieth, the Wife shall not be endowed, either of the Reversion (albeit it is within this Word, Tenements) because there was no Seisin in Deed or in Law, of the Freehold nor of the Rent; because the Husband had but a particular Estate therein, and no Fee-simple. But if the Husband maketh a Lease for Years, reserving a Rent, and taketh Wife, the Husband dies, the Wife shall be endowed of the third Part of the Reversion by Metes and Bounds, together with the third Part of the Rent, and Execution shall not cease during the Years. And herewith agrees the common Experience at this Day. But if the Husband maketh a Gift in Tail, reserving a Rent to him and to his Heirs, and after the Donor taketh Wife, and dies, the Wife shall be endowed of this Rent, because it is a Rent in Fee, and by Possibility may continue for ever.

Vide 1 E. 6. B. 89. Ante 30. a.

Of a Common certain a Woman shall be endowed, but of a Common sans nombre en grosse she shall not be endowed, as hath been said before. And so of a Rent-Servise, Rent-charge, and Rent-seck, she shall be endowed: But of an Annuity that chargeth only the Person, and issueth not out of any Lands or Tenements, she shall not be endowed. But if the Freehold of the Rents, Common, &c. were suspended before the Coverture, and so continue during the Coverture; she shall not be endowed of them. If after the Coverture the Husband doth extinguish them by Release or otherwise, yet she shall be endowed of them; for as to her Dower they in the Eye of the Law have Continuance.

2 Rol. 675. Ante 29. b.

If the Wife be intitled to have Dower of three Acres of Marsh, every one of the Value of twelve Pence, the Heir by his Industry and Charge maketh it good Meadow, every Acre of the Value of ten Shillings, the Wife shall have her Dower according to the improved Value, and not according to the Value as it was in her Husband's Time: For her Title is the Quantity of the Land, viz. one just third Part.

And the like Law it is, if the Heir improve the Value of the Land by Building: And on the other Side, if the Value be impaired in the Time of the Heir, she shall be endowed according to the Value at the Time of the Assignment, and not according to the Value as it was in the Time of her Husband.

¶ Ascens temps durant le coverture. For the better Understanding whereof it is to be known, that (as hath been said) to Dower three Things do belong, viz. Marriage, Seisin, and the Death of the Husband. Concerning the Seisin, it is not necessary that the same should continue during the Coverture; for albeit the Husband alieneth the Lands or Tenements, or extinguisheth the Rents or Commons, &c. yet the Woman shall be endowed. But it is necessary that the Marriage do continue, for if that be dissolved the Dower ceaseth, ubi nullum matrimonium, ibi nulla dos. But this is to be understood when the Husband and Wife are divorced à vinculo matrimonii, as in Case of Precontract, Consanguinity, Affinity, &c. and not à mensa & thoro only, as for Adultery. [8] And yet it is said, That if the Assignment of Dower ad ostium Ecclesiæ be specified, viz. That notwithstanding any Divorce shall happen, yet that she shall hold it for her Life, that this is good.

V. 30 E. 1. Vouch. 293.

Bract. 92. Brit. ca. 101.

Ante 30. a.

Post 33. b. 4 Co. 29.

5 Co. 98.

Post 33 a. b.

If the Wife elope [i] from her Husband, that is, if the Wife leave her Husband, and goeth away and tarrieth with her Adulterer, [9] she shall lose her Dower until her Husband willingly

[1] W. 2. ca. 34. Lib. Intr.

224. Mirror, c. 5. sect. 5.

Perk. 354. 1 Sid. 118.

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