

another to be made, upon different principles ; or to adopt any other mode of disposing of the case, which justice may require.

The evidence taken under the order of the 16th of July last, renders it very clear to my mind, that the amount assigned to the complainant for the annuity of \$120, is wholly insufficient, and that manifest and great injustice will be done him, if the report is confirmed.

Mr. Donaldson, the president of the Baltimore Life Insurance Company since its organization in 1831, proves that the annuity in question was worth \$1286 17, according to the tables upon which the business of that company is regulated, being the Carlisle tables, which tables, he says, furnish a fair business criterion, and a reasonable average profit ; whilst the Auditor's report gives to the complainant but \$666 67. If this be so, and there is no counter testimony, it follows that the complainant, if the report is confirmed, will receive very little more than one-half the value of the annuity. This certainly is a result very much to be deprecated, and one which should be avoided, if it be possible to escape it, without trenching upon principles so firmly established as to leave the court no alternative.

My impression is, that if this question was now before the Court of Appeals, with the lights which observation, and the experience of our insurance companies would throw upon it, that tribunal would not come to the conclusion, to which, in the year 1826 it arrived, in *Dorsey vs. Smith*, 7 H. & J., 345.

When that decision was made, no observations had been made in this country, nor had insurance companies in Maryland, (for there were then none in existence,) by their experience, shown the applicability of the English tables to our latitude and climate. In the absence of all experience upon the subject, the court thought it would be hazardous to follow these guides, and chose rather to apply by analogy the rule long before adopted in the Chancery Court, for the purpose of ascertaining the value of a dower interest in land, sold under its decrees.

But, although the Court of Appeals might, and I think would at this day, establish a different rule for ascertaining the value