considered as distinct, *ibid.*, and so in Hammond v. Higgins, 2 H. & J. 413, judgment was rendered for dower by confession; a writ of *hab. fac. seisin.* was then issued and the dower laid off by a jury and delivered by the Sheriff, and on the return, judgment was entered for the demandant for nominal damages and costs, which on appeal was reversed. So, too, the widow may release her right to damages *occasione detentionis dotis*, without being thereby barred of her right to mesne profits, Harvey v. Harvey, T. Raym. 366.

If judgment is given for the demandant by confession, or by default, or on demurrer to the declaration in an action of dower, a writ issues to deliver seisin and inquire of damages. If judgment is given on verdict the same jury ought to inquire of the dying seised and damages; but if that be omitted it may be supplied by writ of inquiry, Co. Litt. *supra*, 2 Harr. Ent. 201, *et seq.* But it seems that if there is judgment to recover seisin either by default or upon verdict, where the jury have neglected to find any thing else and the writ of seisin is executed and the tenant dies before there is any judgment for the value and damages, the demandant cannot have a *scire facias* against either the heir or terre-tenants for the purpose of suing out a writ of inquiry of such value and damages, because when the tenant dies before judgment given for them it remains a judgment at common law. And in like manner if the demandant die after judgment of seisin but before the execution of a writ of inquiry, her personal representatives shall not have a *scire facias* for the value and damages, 2 Wms. Saund. 45. But **22** the widow or her representatives may be allowed these *mesne profits in equity, *vide infra.* In Thynne v. Thynne, Co. Litt. 32 b. n. 4, there was a judgment by default and a writ to inquire of the value; the jury assessed damages to the taking of the inquisition and judgment was given for them and affirmed good in error. But of course if the demandant has been in possession of her third part under execution on such a judgment, the value would be computed only to the time of seisin delivered, Park. Dow. 308. And on damages being adjudged, they shall be recovered against the tenant to the writ *in toto*, notwithstanding there may have been several in receipt of the profits successively from the death of the husband, and not against every one for his time, Belfield v. Rowse, Co. Litt. 33 a, and n. 3 thereto, where it is said that the Statute of Gloucester that each shall answer for his own time does not extend to this case. And where a demandant recovers judgment for dower, damages and costs against two tenants of the freehold, and one of them dies, the survivor is answerable for the whole, both being considered joint trespassers, Kent v. Kent, 2 Str. 971; 1 Roper, H. & W. 443-4.

It seems from Sellman v. Bowen, 8 G. & J. 50, that the demandant is entitled to damages according to the improved value of the lands.

The widow, however, is not entitled to damages if the heir come in, acknowledge the action, and plead *tout temps prist*, i. e. aver that he was at all times ready to render dower if it had been demanded, see Manning v. Manning, Apl. Term, 1868, of Court of Appeals. And so Lord Coke advises the widow, after the decease of her husband, as soon as she can, to demand her dower before good testimony, otherwise she may by her own default lose the value from the death of her husband, &c., Co. Litt. 32 b. If such a plea is pleaded, and the widow has in fact demanded her dower, she must