

DOWER—Continued.

21. The interest of the widow is a continuation of the seizin of her husband, the seizin of the heir being defeated *ab initio* the moment the certainty of the estate to be held by her is ascertained by assignment. *Childs vs. Smith*, 483.
 22. The commissioners divided an estate into eight parts, and assigned a third of each division to the widow as her dower. One lot consisted almost entirely of wood, the others of arable land. **HELD**—That the widow was not bound to use each parcel, as if her husband had died seized only of the one lot, to which such parcel belonged, but might take from the wood lot, fuel and timber for the use of the cultivated lands. *Ib.*
- See* JURISDICTION, 2, 3, 13.
 LAPSE OF TIME, 4.
 LIMITATIONS, STATUTE OF, 4.
 PARTNERSHIP AND PARTNERS, 2.

ELECTION.

1. The degree of intention necessary to raise a case of election must plainly appear upon the face of the will, but the court is not to disregard what amounts to a moral certainty of the intention of the testator. *Waters vs. Howard*, 112.
2. Where the administratrix of a deceased partner filed a bill against the surviving partners, alleging that the business of the partnership had been carried on under the old name, and large profits made, and praying that her intestate's share of such profits might be paid over to her as administratrix, it was **HELD**—That by such a proceeding she had elected to claim profits and not interest, and that a party cannot claim profits for one period and interest for another. *Goodburn and wife vs. Stevens et al.*, 420.

See EVIDENCE, 4.

EMINENT DOMAIN.

See CONSTITUTIONAL LAW, 5 to 10.

ENROLLMENT OF DECREE.

See PRACTICE IN CHANCERY, 1, 38.

EQUITY AND EQUITABLE DEFENCE.

1. The defendants conveyed by deed a large amount of real and personal property to trustees, in trust to sell the same, and out of the proceeds to pay the claims of their creditors, without priority or preference, except as the same might exist at law. The trustees in execution of their trust, sold parcels thereof to the complainant and others. At the time this deed was executed, there were unsatisfied judgments to a large amount against the grantors, upon some of which, writs of *scire facias* were issued, and *fiats* rendered against the original defendants in the judgments, and the terretenants, the purchasers, from the trustees, and upon these *fiats* writs of *feri facias* were issued and laid upon the lands purchased by complainant. Upon a bill to restrain proceedings upon these executions, it was **HELD**—