

value must be the criterion. For, as it is said, if a wife be entitled to dower of land worth no more than five dollars per acre, and the heir by his industry or by building thereon makes it worth fifty dollars per acre; the widow shall have her dower according to the improved value. So, on the other hand, if the property be impaired, she can recover only according to the reduced value.^(o) But the heir is entitled to no allowance for meliorations and improvements. The account of the rents and profits must be taken according to these principles. Interest must be allowed on the rent from the time it became due or was actually paid by the tenant, as it shall appear.^(p)

There is yet one other branch of this case to be disposed of. The plaintiff prays, that the two-thirds of this property, not covered by her claim, may be sequestered or sold to satisfy the amount which may be awarded to her for rents and profits. I have been referred to no authority which would warrant a sequestration or sale as prayed; nor do I know, that there is any such authority to be found. Perhaps the power to sequester might have been thought to rest upon principles similar to those on which I founded the order appointing a receiver. The cases are, however, widely different. The sole object of appointing a receiver is to take care of the subject about which the parties are contending, and to prevent it from being wasted or lost. Such an appointment involves a decision upon no right; and cannot affect any point in controversy. But a sequestration, or sale, makes a temporary or a total disposition of the property, which can be done in no instance where the matter is not put in issue by the nature of the case, and a sequestration or sale is not expressly authorized. From the nature of the decree, here called for, the title of the defendants and their enjoyment of the two-thirds must be left undisturbed. It is their property. But, like any other property belonging to them, it will be subject to seizure, and sale under a *feri facias* upon a decree commanding them to pay the plaintiff a specified sum of money, should they fail to comply. These prayers of the plaintiff must, therefore, be rejected.

There may be some difficulty in assigning the plaintiff dower in this property, owing to its peculiar nature. It is represented to be a large and valuable edifice, chiefly or altogether occupied as a

(o) Co. Litt. 32, a.—(p) *Tew v. Winterton*, 1 Ves. jun. 451; *Baird v. Bland*, 5 Mun. 492; *Davis v. Walsh*, 2 H. & J. 344.