to the little family, their mother and grandmother; the tender age of the children; the possibility that their mother would for the third time become insane; the propriety of devising the farm to the eldest son with small legacies to the other children; the provision made for the support on the farm of all the persons dependent upon the testator; the preservation of the little home if the dreaded affliction did not recur; the knowledge which I have no doubt his widow had that the gift to her was expressly made in lieu of dower—I find that the widow elected to take the benefits conferred by the will in lieu of dower in the farm.

One question then arises: are the benefits conferred upon Isabella McDougall by the will sufficient to enable the plaintiff to maintain this action? Its solution depends upon whether or not what she took under the will gives the plaintiff a right of action under sec. 47 of R.S.O. 1897 ch. 317. . . . Had the patient, at the time she was placed in confinement or subsequently thereto, come into possession of property, within the meaning of sec. 47? . . . If what the testator bequeathed to his wife, and what she, as I have found, elected to take and did take in lieu of dower, is, within the meaning of sec. 47, property of which she had possession, the action is maintainable; otherwise it must fail. . . .

Such a strictly personal and . . . incommunicable right as she enjoyed for a time could not be taken possession of, managed, or appropriated by the Inspector, or be by him leased, sold, mortgaged, or conveyed, even under the very wide powers given by sec. 48. It is, I think, the possession of such property only as the Inspector is empowered to deal with under sec. 48 that gives him a right of action under sec. 47, and Isabella McDougall was not at any time in possession of property of that nature.

Counsel for the plaintiff submitted many cases to shew that lunacy will not operate to divest the person so afflicted of an estate which has vested. These cases would be applicable here had any property, and not merely a right to support, been bequeathed to the lunatic, or any fund set apart for her maintenance. . . .

[Reference to Partridge v. Partridge, [1894] 1 Ch. 351; Gilchrist v. Ramsay, 27 U.C.R. 500.]

An execution creditor of Isabella McDougall could not proceed by way of equitable execution against the interest which she was to have enjoyed jointly with her children during their infancy: see Fisken v. Brooke, 4 A.R. 8, 23, overruling Buchanan v. Brooke, 24 Gr. 585.

As I consider that Isabella McDougall never came into pos-