are concerned, compensating the widow, where she has sustained no loss, So far therefore as the arrears of dower are concerned, I think the Master has proceeded upon an erroneous principle. The 21st section does not in terms deal with such a case as is presented by the decree in this suit. It provides for arrears of dower, and for fixing the value of future dower in lieu of assignment by metes and bounds; but does not provide for fixing a gross sum in lieu of an annual payment for future dower. Here the decree directs the Master to find the value of the dower as well as the arrears. This value of the dower must mean its value for the future. This admits of different considerations, and I do not see what principle can be adopted in the case of the village lots other than that which the Master has taken, and no other has been suggested. Her right, independently of the decreee, would be to have her dower assigned by metes and bounds or by parcels, upon the principle prescribed in sub-section 2 of section 31. The value directed by the decree to be ascertained is in lieu of that right and palpably unjust to say, because certain property has yielded no annual profit hitherto, her dower in it is of no value. Obviously it is of some value. Suppose buildings put upon these lots, the rentable value would be compounded in part of the value of the buildings, and in part of the value of the land, and so much of the rentable value of the whole as is properly attributable to the land is the rentable value of the land. It may be the building that gives the rentable value to the land, but still it is the rentable value of the house and land, and not of the house only; for the house elsewhere than on the land might be of much less annual value than the house and lands together, and would be certainly of some less annual value.

Then as to the farm property Section 21 of the Act deals with arrears of dower, and also prescribes the mode of fixing the yearly value of the dower for the time to come; but, as I have said, it makes no provision for ascertaining the gross value of one sum That I apprehend must still be done by taking the value of the life of the doweress. The yearly value of the land must be taken in the mode pointed out by the 21st section. It may be that in this case at the date of the death of the husband, the farm property was in so bad a condition that its annual value was very small; one witness puts it as worth nothing at that date. I do not think that this clause of the Act calls for an estimate of value based upon the actual condition and productiveness of the property at the date of the husband's death Such a construction would lead to consequences certainly not contemplated by the Act. For instance, farm property might, from bad husbandry, from neglect of land, buildings and fences, have fallen into such a condition that its productiveness would not at the time repay the cost of cultivation; and yet with repair and good husbandry, the annual value might be very considerable. And so with house property, it might at the death of the husband be in such a state of dilapidation as to be literally untenantable; and its rental value while in that condition scarcely anything; while, if put in repair or let upon an improving lease, it might bring a large rental.

It would be at once unjust, and not according to the spirit of the Act, in any such case to compute the allowance to the widow upon the actual annual value at the date of the death of her husband. The mischief to be remedied was, the widow, under the law as it then stood, being dowable of permanent improvements: usually buildings upon the land by the heir or dvisee, or alience of the husband. This was felt to be unjust as well as against public policy in deterring the proprietor of the land from improving his property; and so the clause enacts, in the first place, that the value of permanent improvements made after death or alienation shall not be taken into account. It is upon the concluding part of the clause that any doubt can exist. It enacts that the estimate shall be made upon the "state of the property" at the time of alienation or death, allowing for rise in value. The "state of the property" here spoken of means, as I read the clause, its state without permanent improvements as distinguished from its state with permanent improvements. Reading the whole together, and looking at the mischief it was intended to remedy, I think it would be pushing this clause beyond its object and meaning if it were interpreted to mean anything more than that permanent improvements made after the death of, or alienation by the husband should be excluded from consideration—in the words of the first part of the clause, should "not be taken into account." Any other interpretation would operate unjustly against the doweress; for instance, the case of farm or house property in a dilapidated condition at the the time of death or alienation. The clause applies to arrears of dower as well as to fixing a money value in lieu of an assignment by metes and bounds, and this case might occur; land might descend or be devised, being at the time of death in a dilapidated condition, and the heirs or devisee might lease, allowing the first year's rent to the tenant for restoration and repair, and reserving a good money rental for the residue of the term. It would be most unjust if the doweress, coming after some years for her arrears of dower, should be confined to what the land would actually produce in the way of ground rental or profit at the death of her husband. Instead of getting one-third she might not get one-tenth of what had come to the hands of the heirs or devisees since the death of her husband, if the Act were to receive a more strict interpretation against the doweress, than that which I put upon it. Regard, too, should be had to the character of the improvements made. The language of the Act is "permanent" improvements, and it is the value of the land apart from improvements of that character that is to be estimated.

I do not think it well to attempt to define more particularly how the estimate of value should be made. What I mean to decide is, that the actual productiveness of property at the date of alienation or death is not, in my judgment, necessarily its yearly value within the meaning of the Act.

It must be referred back to the Master to review his report. It is not a case in which I thing it proper to give costs of this appeal to either party.