

dower therein should be confined to those to which he died entitled (4 W. 4, c. 1.) Thus as far as his equitable estates were concerned, the husband's power of disposition thereof, without the concurrence of his wife, was preserved.

But a further inroad on the Common Law was made in 1879, by 42 Vict., c. 22. It was considered then, that where a wife had a Common Law right of dower, and joined with her husband in a mortgage whereby her husband's estate, subject to such dower, became converted into an equitable one, that in such a case the wife's right to dower in the equity of redemption ought not to be at the mercy of the husband; but that the wife should be dowable out of the equity of redemption, unless she also expressly barred her dower therein, and in short, that to equitable estates of that nature, the Common Law rule should be extended, and that the dower should attach thereto, whether the husband died seized thereof or not. This was accomplished by declaring that no bar of dower in a mortgage should operate to bar dower to any greater extent than should be necessary to give full effect to the rights of the mortgagee, and by also providing that in the event of a sale of the mortgaged property under a power of sale contained in the mortgage, the wife of the mortgagor should be dowable in the surplus "to the same extent as she would have been entitled to dower in the land from which such surplus money shall be derived, had the same not been sold." These last words have been criticized, as not being a very appropriate mode of expressing the idea, possibly intended to be conveyed; and it has been said that as, according to the previous statute giving dower in equitable estates, the wife, in case her husband did not die entitled would have had no dower in the land, therefore under this section she can have no dower in the surplus, unless it is either realized in his lifetime, while he is still owner of the equity of redemption, or unless he dies entitled thereto; and it has been thought that even under this provision, if the husband parted with his equity of redemption in his lifetime his widow's right to dower in any surplus is defeated: (see per Dalton, M.C., *Re Croskery*, 16 O.R. 207) but this view appar-