

## ONTARIO.

R. S. 1897, Dower Act.

A wife has an inchoate (begin) right of dower to all lands acquired or held by her husband during coverture notwithstanding that he may have disposed of them in his lifetime or by will.

If a wife bars her dower in a mortgage, it is not an absolute bar but only to a sufficient extent to give full effect to the rights of the mortgagee. If land sold under a mortgage containing bar of dower, dower is payable out of the surplus, the amount being one-third of the gross value of the land. This does not apply to marriages made before the act. Formerly a wife had to be examined before a judge apart from her husband before she could bar her dower, but it is not so now.

p. 839, 1633. By statute there is a dower even out of equitable estate, if the husband has not parted with the same in his lifetime and die beneficially entitled.

The widow may elect to take in distribution share in lieu of dower.

In living absent from her husband for five years a wife bars her dower in any land the husband may have sold or mortgaged during that time, the purchaser or mortgagee having no knowledge of the existence of a wife.

No action for dower can be brought but within ten years after the death of the husband of the dowress notwithstanding any disability, but if widow has, after the death of husband, actual possession of the land the period of ten years is to be computed from the time when the possession ceased.

The widow of a joint tenant has no dower in her husband's estate, for by the operation of the conveyance the whole estate vests in the survivor of the joint tenant.

If husband purchases an estate subject to a mortgage or mortgages his land and then marries, no dower attaches unless he dies beneficially entitled.

### Tenancy by Courtesy.

It is a question, since the enactment of the Devolution of Estates Act, whether the effect of sections 3 to 9 of this act is not to abolish tenancy by the courtesy, giving the husband in lieu one-third if there is any issue or half if no issue, of real and personal estate if the wife dies intestate. Husband has the right to select under the different sections of the Act.

The Ontario legislature has by 62 Vic. cap. 9, sec. 11 recognized the estate by the courtesy as an existing estate, but if the view be correct that the said estate was abolished by previous legislation this recognition would have no effect. (A. H. Marsh, K.C., Toronto Bar).