

assignee for the benefit of creditors, he had no right to redeem: R.S.O. (1897) ch. 147, sec. 5; ch. 77, sec. 30(2); *Kinnaird v. Trollope*, 39 Ch. D. 636, 642. Nor could he claim as a purchaser: all his negotiations as purchaser were indefinite, and did not "come to a head."

As regards Mrs. Nicholson, in the absence of binding authority, I should be inclined to hold that she had no right to redeem as doweress. At the trial the general right of a doweress to redeem was not disputed, but it was not, as I understood it, admitted that Mrs. Nicholson had such right under the circumstances.

In *Casner v. Haight*, 6 O.R. 451, the plaintiff had joined in a mortgage to bar her dower—the mortgagee issued a writ against the husband for foreclosure and obtained judgment "foreclosing all the right, title and equity of redemption of the said" mortgagor. The wife was not a party to the foreclosure proceedings, and subsequently brought an action to redeem. On demurrer, *Proudfoot, J.*, held that the wife was not a necessary party, and that as she had no right to dower in her husband's equitable estates during his lifetime, she had no interest in the equity of redemption. The demurrer was allowed.

In *Blong v. Fitzgerald*, 15 P.R. 467, the wife joined to bar dower, the mortgagee brought an action for foreclosure against the mortgagor only, judgment was given for foreclosure, and report made. The wife applied upon petition to be made a party and to be allowed to redeem. Mr. Justice Rose said: "The wife has the right to redeem during the husband's lifetime, and I think also the judgment in her absence would not bind her in any way . . . she should have been a party to the action in the first instance."

For the purpose of the present inquiry it will be seen that the latter judgment does not affect the former—the order for foreclosure had not become absolute, so that the husband had not been deprived of the equity of redemption; he might still come in and redeem, and consequently the wife had an interest sufficient to found a right to redemption. Before the final order of foreclosure was made, she was allowed to exercise the right to redeem. . . . The wife in the *Fitzgerald* case then was in the same position, *quoad* the right to redeem, as if no judgment for foreclosure had been made; and "the veriest scintilla of interest will entitle a person to maintain such a suit," *per Kay, J.*, in *In re Parsons*, 45 Ch. D. 51 at p. 59.

The effect of the final order of foreclosure is simply to trans-