

BOOK REVIEW.

which may be mentioned the doctrine of election between dower and a devise or bequest in a will, this is very fully discussed in chap. 34. The work closes with a sketch of the proceedings in actions for dower.

Perhaps the portion of the work which is of most interest in Ontario is that in which dower in mortgaged estates is considered. In his preface the author modestly says that he makes no pretence to originality. In this branch of his subject, however, he has had scarcely any tracks to step in. The decisions of our own Courts and the Provincial Statutes form his materials, and these he has discussed with considerable freedom and ability, (see pp. 240 and 241), and has not hesitated to submit his own views where judicial decision has yet to be given. The author will doubtless expect to find practitioners who differ from him, and it may not be out of place to call our readers' attention to some of these as yet unsettled points. For instance, on p. 270, in the case of a purchase by the husband before marriage, he receiving a deed and giving a mortgage for a portion of the purchase money, and after marriage re-conveying to the mortgagee in satisfaction of the mortgage, his wife not joining. It may be reasonably urged that in such a case the American authorities cited to shew that the widow should be endowed, should not be followed here. There are analogous authorities in Ontario under which it could be urged that the wife would only be dowerable out of the equity of redemption, which the husband could convey without the concurrence of his wife, and so defeat her contingent right to dower. It does not, indeed, seem so clear as the writer puts it on pp. 248 and 249, that the statute 42 Vict. c. 22, disables a husband from conveying his equity so as to divest the dower without the wife's concurrence. The effect of *Calvert v. Black*, 8 Pr. R. 254, seems to be that the statute only applies in the case of a compulsory sale of the land. That case was not directly impugned in *Martindale v. Clarkson*, 6 App. R. 1, and has very recently been followed by the Chancellor in *Re Ward*, (March 12, 1883), though from some of the remarks made by that learned judge in giving judgment, it might be inferred that his decision might have been different if the matter were *res integra*.

The author's construction of the above statute also tinges his views as to the propriety of joining

as a party to a foreclosure action the mortgagor's wife, who has joined in the mortgage to bar dower, (p. 248). In a suit for sale in the event of there being a surplus it would certainly seem proper that the surplus should not be disposed of in her absence; but it is only upon the happening of that event that there would seem to be any more reason for her being a party than when *Davidson v. Boyes* (6 Pr. R. 27,) was decided, and it may well be doubted whether the mortgagor's estate should be burdened with the mortgagee's costs of making the wife a party from the commencement of the suit, while her interest arises only at the time when that of the mortgagee ceases. In a suit for foreclosure, as the mortgagee takes the land if the owner of the equity of redemption, the husband, does not redeem, no right of the wife under the statute would seem to arise at any stage; and if that is the case why should she be made a party. It is possible, however, that practitioners will not care to run any risk in the matter, and will adopt the course which Mr. Cameron upholds, especially as it has been decided that the wife in the case of a mortgage since the statute, is not an improper party: (*Building and Loan Association v. Curswell*, 8 Pr. R. 73).

On the whole we think it will be found that the author has fulfilled the belief expressed in the preface that his work embraces references to most of the American cases in point, to nearly all the English cases, and, without exception, to all the Canadian ones. The profession will, we feel sure, have reason to be grateful to Mr. Cameron for his labours in rescuing from the Laureate's imputation of "codelessness" the "wilderness of single instances" in this branch of the "lawless science of our law."

The typographical appearance of the book is admirable. We have observed one or two clerical slips not noticed in the list of *corrigenda*; for instance, "vendor's," on p. 234, would seem to be intended to be "vendee's;" "simply contract" for "simple contract," on p. 237; and "Bowes" for "Boyes" in the reference to *Davidson v. Boyes*, p. 248.