

prior to the marriage, and then after the marriage, but prior to the Act of 1818, ch. 193, he mortgaged his equity of redemption, which was sold under a decree obtained by the mortgagees in the year 1823, and it was against these claiming under the purchasers at that sale, that the widow claimed her dower. The Court, in that case, lay much stress upon the fact that the husband had mortgaged his equity of redemption prior to the passage of the Act of 1818, ch. 193, which is the origin in this State of the title of widows to dower in lands held by equitable title in the husband, and it might possibly be fairly inferred from the language of the Court, that the widow's claim would have been successful, if the date of the mortgage of the equity of redemption had been posterior to the passage of the Act of Assembly. But from the subsequent case of *Miller vs. Stump*, 3 *Gill*, 304, it would appear that if the husband transfers his equitable estate at any time during his life, the widow will be deprived of her dower; the Court in this last case saying, "The Act of Assembly does not say, and it ought not to be construed to mean, that the widow shall be entitled to dower in lands held by equitable title in the husband at *any time* during the coverture."

The conclusion from these two cases is, that a widow is not entitled to dower in an equitable estate held by the husband during the coverture, unless he also *dies* the owner of such estate, and that if during the marriage, he parts with it, though without the concurrence of his wife, she will be deprived of her claim to dower, if she survive him.

In this case the question is, whether the complainant, who is the widow of Galen Purdy, is entitled to dower in a parcel of land purchased of Joseph N. Stockett and wife, and conveyed by them to Thomas and Henry Purdy, on the 11th of September, 1839? The proceedings show that this piece of land was purchased of Stockett and wife, by Thomas Purdy, John Purdy, Henry Purdy, and Galen Purdy, though the title was conveyed to Thomas and Henry. And that on the day of the date of said conveyance, these last-named parties conveyed the same land, by way of mortgage, to the Farmers'