

grievously amerced, according to the Discretion of the Justices; and if not, the Heir shall recover his Demand, &c. (14) In like manner the Woman shall be aided, if the

110 *Heir or any other do implead her for her Dower, or if she lose her Dower by Default, in which case the Default shall not be so prejudicial to her, but that she shall recover her Dower, if she have Right thereto, and she shall have this Writ.

cordia & amerietur graviter secundum discretionem justic' sin autem recuperet heres petitionem suam. Eodem modo subveniatur mulieri si heres vel alius eam implacitaverit de dote sua si dotem suam per defaultam amiserit in quo casu sua defaulta non sit ei ita prejudicialis quin dotem suam si jus habeat recuperare possit & fiat ei tale breve.

The Wife shall be endowable, though the Land be recovered against her Husband by Covin, or by Default. 2 Inst. 347. 14 H. 4, f. 31. 50 Ed. 3, f. 7. Fitz. Dower, 80, 140, 173. A Remedy for Tenants for Life, &c., which do lose their Land by Default. Fitz. Voucher, 46, 59, 159, 165, 186, 261, 275, 276, 309. 11 Co. 62. Hob. 299. The particular Tenants may vouch him in the Reversion. The Heir avoideth a Woman of her Dower recovered against his Gardian. A Woman's Dower recovered against her by Default. 6 Co. 8. Co. Lit. 131 b., 354 b., 355 a, 356 a. *Quod ei deforceat* for Tenant in Frank-marriage. For tenant for Life, or in Tail. Fitz. *Quod ei deforceat*, 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 17. Cro. Car. 445. F. N. B. 155 b. Regist. 171 b. 230. Rast. 491.

In practice, many omissions of the husband have been suffered to prejudice the wife's title to dower. Thus if a man were disseised and then married, and died without re-entering; or if he made a feoffment upon condition on the part of the feoffee, and married, and afterwards the condition was broken and he died without entry, the wife was not entitled to dower. So too if he had judgment to recover land, and married and died before entry or execution sued; or if he made a lease for life, and afterwards took a wife and the lessee did waste, and the lessor died, the wife was equally deprived of dower. For in these cases the husband had during the marriage neither possession in deed nor in law; and although by entry or suit in his lifetime he might have recovered possession, and in respect of his wife's title to dower was guilty of laches in not doing so, his default of availing himself of these remedies prevented the accrual of any right of dower.

Where, however, by the laches or collusion of the husband in *pleading*, land was recovered against him, the wife was allowed to falsify this recovery and obtain her dower. It seems that in former times husbands, as it is expressed by an old writer, "either for the little love they bore towards their wives, or for great affection to the price of their dower, had gotten a use of suffering lands to be recovered from them by judgments, concords,