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1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act to amend the Law relating to Dower,

Received and read, first time, Tuesday, 16th March, 1858.

Second reading, Tuesday, 23rd March, 1858.

Mr. BENJAMIN.

TORONTO:
PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to amend the Law relating to Dower in Upper Canada.

HATHEREAS the Law relating to dower at present in force in Up- Preamble. per Canada is unjust in its operation, and it is expedient to amend the same: Therefore Her Majesty, &c., enacts as follows:

- I. No widow shall be entitled to dower out of any land which No dower on 5 shall have been absolutely disposed of by her husband in his lifetime, of by husband. or by his will.
- II. All partial dispositions, and all charges created by any Dispo-Charges, dea, sition or Will of a Husband, and all debts, incumbrances, contracts come before and engagements to which his land shall be subjected or liable at the dower: 10 time of his death, shall be valid and effectual as against the right of his widow to dower.

- III. A widow shall not be entitled to dower out of any land of Land may be her husband, when in the deed by which such land was conveyed to declared not liable to him, or by any deed executed by him, it shall be declared that his dower by deed. 15 widow shall not be entitled to dower out of such land.
- IV. A widow shall not be entitled to dower out of any land of 0r by will of which her husband shall die wholly or partially intestate, when by the the husband. will of her husband, duly executed for the devise of freehold estates, he shall declare his intention that she shall not be entitled to dower 20 out of such land, or out of any of his land.
 - V. The right of a widow to dower shall be subject to any condi-Dower may tions, restrictions or directions, which shall be declared by the will be subjected to restrictions, of her husband, duly executed as aforesaid.
- VI. When a husband shall devise any land out of which his widow Devise of 25 would be entitled to dower, if the same were not so devised, or any land to wife to bur dower, estate or interest therein, to or for the benefit of his widow, such unless, &c. widow shall not be entitled to dower out of or in any land of her said husband, unless a contrary intention shall be declared by his will.

VII. No gift or bequest made by any husband to or for the benefit Bequest of 30 of his widow of or out of his personal estate, or of or out of any of personal his land not liable to dower, shall defeat or prejudice her right to bar dower, dower, unless a contrary intention shall be declared by his will.

unless, &c.

VIII. Nothing in this Act contained shall prevent any Court of Act not to Equity from enforcing any covenant or agreement entered into by or affect covenant

on the past of any husband, not to bar the right of his widow to dower out of his lands, or any of them.

No dower out of equitable estates.

IX. So much of the Act of the Legislature of Upper Canada, passed in the fourth year of the reign of King William the Fourth, initialed "An Act to amend the Law respecting real property, and to render the proceedings for recovering possession thereof in certain cases, less difficult and expensive," as gives dower out of equitable estates or estates partly legal and partly equitable, is hereby repealed.

Extent of Act. X. This Act shall apply only to dower on lands in Upper Canada, and shall extend to all cases where the husband shall die after its 10 passing.