

No. 18.

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

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

I. No widow shall be entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime, or by his will. No dower on land disposed of by husband.

II. All partial dispositions, and all charges created by any Disposition or Will of a Husband, and all debts, incumbrances, contracts and engagements to which his land shall be subjected or liable at the time of his death, shall be valid and effectual as against the right of his widow to dower. Charges, &c., by husband to come before dower.

III. A widow shall not be entitled to dower out of any land of her husband, when in the deed by which such land was conveyed to him, or by any deed executed by him, it shall be declared that his widow shall not be entitled to dower out of such land. Land may be declared not liable to dower by deed.

IV. A widow shall not be entitled to dower out of any land of which her husband shall die wholly or partially intestate, when by the 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 out of such land, or out of any of his land. Or by will of the husband.

V. The right of a widow to dower shall be subject to any conditions, restrictions or directions, which shall be declared by the will of her husband, duly executed as aforesaid. Dower may be subjected to restrictions.

VI. When a husband shall devise any land out of which his widow would be entitled to dower, if the same were not so devised, or any estate or interest therein, to or for the benefit of his widow, such 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. Devise of land to wife to bar dower, unless, &c.

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

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

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

No dower out IX. So much of the Act of the Legislature of Upper Canada, passed
of equitable in the fourth year of the reign of King William the Fourth, intituled
estates. “*An Act to amend the Law respecting real property, and to render the* 5
4 W. 4, c. 1, s. *proceedings for recovering possession thereof in certain cases, less difficult*
13. *and expensive,*” as gives dower out of equitable estates or estates part-
ly 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.