



## CHAPTER 68.

### An Act relating to Dower.

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

#### *Short Title.*

1. This Act may be cited as the "Dower Act." R. S. 1897, c. 63, short title.  
s. 1.

#### *Interpretation.*

2. The words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows, that is to say:—

"Land" shall extend to manors, advowsons, messuages, and all other hereditaments, whether corporeal or incorporeal (except such as are not liable to dower), and to any share thereof;

And every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing. [3 & 4 Will. 4, c. 105, s. 1]; R. S. 1897, c. 63, s. 2.

#### *Right to Dower.*

3. When a husband shall die beneficially entitled to any land for an interest which shall not entitle his widow to dower out of the same at law, and such interest, whether wholly equitable or partly legal and partly equitable, shall be an estate of inheritance in possession, or equal to an estate of inheritance in possession (other

Widows to be entitled to dower out of equitable estates.

than an estate in joint tenancy), then his widow shall be entitled in equity to dower out of the same land. [3 & 4 Will. 4, c. 105, s. 2]; R. S. 1897, c. 63, s. 3.

Selsin shall not be necessary to give title to dower.

4. When a husband shall have been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same although her husband shall not have recovered possession thereof: Provided that such dower be sued for or obtained within the period during which such right of entry or action might be enforced. [3 & 4 Will. 4, c. 105, s. 3]; R. S. 1897, c. 63, s. 4.

No dower out of estates disposed of.

5. 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. [3 & 4 Will. 4, c. 105, s. 4]; R. S. 1897, c. 63, s. 5.

Priority to partial estates, charges, and specialty debts.

6. All partial estates and interests, 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 subject or liable, shall be valid and effectual as against the right of his widow to dower. [3 & 4 Will. 4, c. 105, s. 5]; R. S. 1897, c. 63, s. 6.

Dower may be barred by a declaration in deed.

7. 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. [3 & 4 Will. 4, c. 105, s. 6]; R. S. 1897, c. 63, s. 7.

Or by a declaration in the husband's will.

8. 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. [3 & 4 Will. 4, c. 105, s. 7]; R. S. 1897, c. 63, s. 8.

Dower shall be subject to restrictions.

9. 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. [3 & 4 Will. 4, c. 105, s. 8]; R. S. 1897, c. 63, s. 9.

Devise of real estate to the widow shall bar her dower.

10. Where 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. [3 & 4 Will. 4, c. 105, s. 9]; R. S. 1897, c. 63, s. 10.

Bequest of personal estate to the widow shall not bar her dower.

11. 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. [3 & 4 Will. 4, c. 105, s. 10]; R. S. 1897, c. 63, s. 11 (*part*).

**12.** No arrears of dower nor any damages on account of such arrears shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action. [3 & 4 Will. 4, c. 27, s. 41]; R. S. 1897, c. 63, s. 11, subsec. (1). Limitation of action for arrears or damages.

**13.** Nothing in this Act contained shall prevent any Court of competent jurisdiction from enforcing any covenant or agreement entered into by or on the part of any husband not to bar the right of his widow to dower out of his lands, or any of them. [3 & 4 Will. 4, c. 105, s. 11]; R. S. 1897, c. 63, s. 12. Agreement not to bar may be enforced.

**14.** Nothing in this Act contained shall interfere with any rule of equity by which legacies bequeathed to widows in satisfaction of dower are entitled to priority over other legacies. [3 & 4 Will. 4, c. 105, s. 12]; R. S. 1897, c. 63, s. 13. Legacies in bar of dower still entitled to preference.

**15.** No widow shall hereafter be entitled to dower ad ostium ecclesiæ or dower ex assensu patris. [3 & 4 Will. 4, c. 105, s. 13]; R. S. 1897, c. 63, s. 14. Certain dowers abolished.

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