

Bill No. 70 of 1946.

A BILL TO AMEND THE DOWER ACT

NOTE.

Section 8 of *The Dower Act* now provides that where a husband and wife are living apart or where the wife has not since her marriage lived in the Province, or where her whereabouts are unknown or where she is a mentally incompetent person or person of unsound mind, a judge of the Supreme Court may by order dispense with the consent of the wife to a disposition of the homestead, that is, the home quarter section or the residence in a city, town or village if in the opinion of the judge it seems fair and reasonable to do so upon such terms and conditions as to payment into Court or otherwise as the judge thinks proper. In a recent case in the Appellate Division of the Supreme Court, the Court in effect held that in all such cases the judge making the order must impose conditions of the nature above stated. It is considered that a judge has authority in a proper case to make an unconditional order dispensing with the consent of the wife and the purpose of the amendment is to give judges such a discretion.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 70 of 1946.

An Act to amend The Dower Act.

(Assented to _____, 1946.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Dower Act*, being chapter 206 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 8,—

- (a) by striking out the words “upon such terms and conditions as to payment into court or otherwise as the judge in the circumstances thinks proper”, where the same occur in subsection (1) thereof, and by substituting therefor the words “and the judge may make the order without imposing any conditions or upon such terms and conditions as to payment into court or otherwise as the judge in the circumstances thinks proper”;
- (b) by adding immediately after subsection (1) thereof the following new subsection:
“(1a) Upon the making of such order and subject to the terms and conditions, if any, thereby imposed, the interest of the wife in the homestead described in the order shall thereby be extinguished.”

2. This Act shall come into force on the day upon which it is assented to.

No. 70

THIRD SESSION
TENTH LEGISLATURE
10 GEORGE VI
1946

BILL

An Act to amend The Dower Act.

Received and read the

First time

Second time

Third time

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1946