

BILL

No. 20 of 1918.

An Act to amend The Dower Act.

(Assented to _____, 1918.)

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

The Dower Act, being chapter 14 of the Statutes of Alberta, 1917, is amended as follows:

1. By adding after the word "shall" in the sixth line of section 3 the words "subject to the provisions of section 7b hereof".

2. Section 4 is amended by adding as subsection (2):

"(2) Where at the time of the death of a married man intestate with respect to his homestead, his wife is living apart from her husband under circumstances disentitling her to alimony, no such life estate shall vest in such wife, nor shall she take any benefit under this Act."

3. By adding as section 7a the following:

"7a. Where the wife of the owner of a homestead is, in fact, living apart from her husband under circumstances disentitling her to alimony or is in fact a lunatic or person of unsound mind, then any judge of the Supreme Court upon the application of any person interested and by order made in a summary way shall upon the establishment of the former fact, and may upon the establishment of the latter fact, dispense with the consent and acknowledgment of the wife, subject in the latter event to such terms and conditions as appear to him just.

"(2) Where the wife is a lunatic or person of unsound mind, notice of every such application shall be served in the manner provided by the Rules of the Supreme Court for the service of Statements of Claim on such persons.

"(3) Upon such order being filed with the registrar of land titles, and upon payment of the proper fees the registrar shall register the transfer, agreement, lease, mortgage, encumbrance or other instrument in the same manner as if this Act had not been passed."

4. By adding as section 7b the following:

"7b. No transferee, mortgagee, encumbrancee, lessee or other person acquiring an interest in a homestead shall be bound to make enquiry as to the truthfulness of the facts alleged in the affidavit required to be taken under the provisions of section 110 of *The Land Titles Act* or in the certificate of acknowledgment in form A appended hereto, but upon execution of an instrument purporting to be completed in accordance with this Act, such instrument shall become valid and binding according to its tenor save as in subsection (2) of this section provided.

“(2) Knowledge on the part of any transferee, mortgagee, encumbrancee or lessee that the land dealt with in a disposition to him is the homestead of the person making the same, and that such person has a wife whose consent to such disposition is required by this Act and who has not given such consent shall be fraud and in an action by the wife any such disposition, the registration thereof, or the certificate of title issued thereon as the case may be, shall be set aside and cancelled.”

5. By adding as section 7c the following:

“7c. Whenever any land may be taken compulsorily under the provisions of any Act of Canada or Statute of Alberta and is so taken or is acquired under an agreement with the owner thereof by the person entitled to take the same compulsorily, then the provisions of this Act shall not apply to the disposition of such land.”

6. By adding as section 9a:

“9a. This act shall apply to all wives, whether or not they have attained the age of 21 years, and for the purposes of this Act, and every matter or thing done under or by virtue of its provisions, a married woman of whatever age shall be deemed to be *sui juris*.”

7. By striking out from form A the words “being voluntarily executed by her” and substituting therefor the words “being executed by her of her own free will and accord and without any compulsion on the part of her husband”, and by changing the caption thereof from “Acknowledgment by Wife” to “Certificate of Acknowledgment by Wife”.

No. 20.

FIRST SESSION
FOURTH LEGISLATURE
8 GEORGE V
1918

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An Act to amend The Dower Act.

Received and read the

First time.

Second time.

Third time.

HON. MR. CROSS.

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