

No. XXVII.

An Act to amend the Law of Dower in certain respects. [1st October, 1850.]

DOWER.

WHEREAS titles to land in New South Wales are often unfairly prejudiced by claims of Dower made or maintainable by women who have never resided with their husbands in the said Colony and of whose existence the purchasers of such land had no notice at the time of the sale thereof by the husbands of such women. And whereas titles to land subject to contingent claims of Dower are prejudiced to an extent beyond the just maintenance of such claims and improvements upon property after sale thereof by the husbands of the claimants are injuriously retarded by the apprehension of such claims being extended to the additional value resulting from such improvements. Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That no claim to Dower on the part of the widow of any deceased owner of land shall have any force at Law or in Equity against any person claiming by purchase from such owner for valuable consideration unless it shall be proved that the claimant resided in New South Wales with and as the wife of such deceased owner before his sale of the land or that the purchaser had notice before or at the time of sale of the fact of the deceased owner having been married to the claimant and in case the defendant resisting such claim shall derive title through the original purchaser from such deceased owner it shall not be sufficient to prove such knowledge on the part of the original purchaser without also shewing that before the defendant purchased the land either the claimant had resided with her husband in the said Colony or the defendant had become acquainted with the said fact of marriage.

2. And be it enacted That the claim to Dower out of any land by the widow of any person who has or shall have alienated such land for valuable consideration shall be limited to one-third of the estimated rent for the time being of such land considered as if remaining in the state of improvement in which the same shall have been at the time of such alienation and shall not be recoverable by metes and bounds but shall be assignable by a Court of Equity only with liberty nevertheless to such Court to direct the trial at law of any issue of fact on which the assessment of the claim shall depend.

No claim for Dower
maintainable against
a purchaser unless
wife resident in the
Colony before sale
or fact of marriage
known to purchaser.

Claim for Dower
against a purchaser
limited to one-third
of rent or estimated
rent at time of sale.