

Opinion No. 153.**State Lands—Certificates of Purchase—Dower Rights—Assignments.**

HELD: The wife of a purchaser of state lands has a dower right in such lands and her signature to an assignment of the certificate of purchase is necessary in order to transfer all rights therein to the assignee.

September 9, 1937.

Hon. Nanita B. Sherlock
Commissioner of State Lands and
Investments
The Capitol

Dear Mrs. Sherlock:

You have submitted the question whether it is necessary for the wife to join with her husband in an assignment of the certificate of purchase of state lands, in order to transfer all rights to the same.

A certificate to purchase is a contract to purchase real estate. A contract to purchase real estate establishes an equitable estate in purchaser. Section 5813, R. C. M., 1935, provides in part:

“* * * Equitable estates shall be subject to the widow’s dower, and all

real estate of every description, contracted for by the husband during his lifetime, the title to which may be completed after his decease."

It is therefore my opinion that a wife has dower right in the lands covered by a certificate of purchase and that her signature is necessary in order to transfer all rights therein to the assignee.