

## DOWER ACT OF 1868.

indorsement and notice or notices as the writ of summons hereinbefore set forth, making such changes as the nature of the case renders indispensable.

15. Upon the Court or Judge being satisfied that such writ has been personally served upon the defendant, or that reasonable efforts have been made to effect personal service thereof on the defendant so resident out of Ontario, and that it came to his knowledge, and that he has not appeared, such Court or Judge may from time to time, direct that the demandant may proceed in the action in like manner as if the defendant had been served under this Act in Ontario, subject to such conditions as to such Court or Judge may seem fit, having regard to the time allowed to the defendant to appear being reasonable, and to the other circumstances of the case.

16. Any defendant named in the writ may, within the time appointed, file an appearance and acknowledgment that he is tenant of the freehold of the land named in the writ, together with his consent that the demandant may have judgment for her dower therein, and may take the proceedings authorised by this Act to have the same assigned to her, unless the parties shall otherwise agree, and he shall forthwith serve the demandant or her attorney with a copy of such appearance, acknowledgment and consent, together with an affidavit of the day of the entering and filing the same in the proper office, and in every such case when the defendant so admits the right to recover, the demandant may enter judgment of seizin forthwith, and may obtain a writ of assignment of dower in manner hereinafter specified, but she shall not be entitled to tax or recover the costs of suit or entering such judgment against the defendant.

17. In case an appearance be entered with a denial by the defendant that he is tenant of the freehold, the demandant may at once and without further pleadings take issue on that denial and make up an issue book, setting out the writ, the appearance and denial and the issue thereon, and may give notice of trial and proceed to trial as in personal actions, and if she obtains a verdict she shall be entitled to costs and to enter judgment of seizin of her dower, as against such defendant.

18. In case only an appearance be entered, the demandant may at once declare, and when damages are claimed in the writ, they may also be claimed in the declaration which may be to the effect following:

*(The Rule of the Court.)*

In the County of \_\_\_\_\_ to wit:  
The \_\_\_\_\_ day of \_\_\_\_\_, 18—.

A. B. widow, *(as the case may be)* who was wife of C. B. deceased by \_\_\_\_\_ her attorney, demands against *(the defendant)* the third part *(of the land and premises as described in the writ)* with the appurtenances in the *(township, &c.)* of \_\_\_\_\_ in the said county of \_\_\_\_\_ as the dower of the said A. B. of the endow-

ment of C. B., deceased, heretofore her husband, whereof she had nothing *(and if damages are claimed)* and she also claims damages for the detention from her of her endowment in the said lands from the \_\_\_\_\_ day of \_\_\_\_\_ 18— and she claims \$ \_\_\_\_\_.

19. The several enactments in the Common Law Procedure Act relative to pleas, demurrers, replications and subsequent pleadings, and the periods appointed within which the same must be pleaded, and in which notice of trial must be given and countermanded, and as to amending pleadings, and as to practice not herein provided for, and making all or any other amendments, and as to the authority of the Court or of a Judge in such matters, and also the rules of Court, from time to time in force relative to pleading and practice, shall, so far as they can be made applicable, and are not at variance with this Act, be in force and apply to and regulate the course and practice of pleading and procedure in actions of dower.

20. Special cases may be stated by leave of the Court or a Judge in like manner as in other actions.

21. In estimating damages for the detention of dower or the yearly value of the lands, for the purpose of fixing a yearly sum of money in lieu of an assignment of dower by metes and bounds, the value of permanent improvements made after the alienation of the lands by the husband, or after the death of the husband, shall not be taken into account; but such damages or yearly value shall be estimated upon the state of the property at the time of such alienation or death, allowing for the general rise, if any, in the price and value of land in the particular locality.

22. No action of dower shall be brought but within twenty years from the death of the husband of the demandant.

23. No such action shall be hereafter maintained, in case the demandant has joined in a deed to convey the land or to release her dower therein to a purchaser for value, although the acknowledgment required by law at the time may not have been made or taken, or though any informality may have occurred or happened in the making, taking or certifying such acknowledgment.

24. All actions of dower which shall be pending at the time this Act shall come into force, may be continued and carried on to judgment in like manner as if this Act had not been passed.

25. Unless where it is in this Act expressly declared to the contrary, costs shall be taxed and allowed to, and be recoverable by either party in an action of dower, in like manner as in personal actions, and writs of execution to levy the same with damages, where damages have been adjudged, may be sued out and executed as in personal actions.

26. After judgment has been rendered in the demandant's favour to recover dower, whether with or without costs or damages,