

DOWER ACT OF 1868.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To ——— of ——— [*naming each defendant and the place and county of the residence and abode of each defendant.*]

We command you (*and each and every of you*) that you render to ——— who was the wife of ——— now deceased, her reasonable dower which falleth to her of the freehold which was of the said ——— her late husband, of and in (*describe the land and property by the number of the lot, or the part of the lot, concession, name of the Township, City, Town or place, or with such other reasonable certainty as will shew out of what land and property dower is claimed,*) and whereof she complains that you deforce her, or that you appear within sixteen days either to disclaim any right or estate of freehold in the said land and property, or to defend yourself against her claim.

Witness, &c.

5. Every such writ shall bear date on the day on which it is issued, and shall be issued out of the proper office, in the county wherein the lands lie, and shall be in force for six months, and shall be returnable on the sixteenth day after service thereof, and shall be indorsed with the name and place of abode of the Attorney suing out the same, or (if no Attorney) the name and residence of the demandant shall be indorsed thereon in like manner, as the indorsements on writs of summons in personal actions; and the same proceedings may be had to ascertain whether the writ was issued by the authority of the Attorney whose name appears indorsed thereon, and who the demandant is, and her abode, and as to the staying proceedings upon writs issued without authority as in personal actions.

6. On every such writ and on each copy thereof shall be indorsed a notice addressed to the defendants, which may be to the effect following:—"You are served with this writ to the intent that you may enter an appearance and denial that you are tenant of the freehold of the lands mentioned in the writ, or that you may enter only an appearance; and take notice that unless within sixteen days of the service hereof, you enter an appearance with or without such denial, the demandant will have a right to sign judgment to recover as against you the dower claimed with costs of suit."

7. In case the demandant claims damages for detention of her dower, such notice shall contain a further statement that the demandant claims damages for the detention of her dower from some day to be stated in the notice.

8. Any defendant named in the writ may appear within the time appointed, and with the appearance may file a notice addressed to the demandant setting out that he denies that he is tenant of the freehold of the lands men-

tioned in the writ, which denial shall as against that individual defendant be taken to admit the claim of the demandant to dower as stated in the writ.

9. Any defendant named in the writ may appear within the time appointed, and by filing an appearance without such denial, shall be taken to admit that he is tenant of the freehold, and shall not afterwards be allowed to deny the same.

10. Every tenant in possession, who is not also tenant of the freehold and who is served with a writ under this Act, shall forthwith give notice thereof to his landlord or other person under whom he entered into possession, under the penalty of forfeiting the value of three years' improved rent of the premises in the possession of such tenant, to the person under whom he entered in possession, to be recovered by action of debt to be brought in either of the Superior Courts of Common Law in Ontario.

11. The landlord or other person under whom such tenant, as is mentioned in the next preceding section, holds or entered into possession, may, if he has not been served with the writ of dower, apply to the Court or a Judge upon affidavit, that he is tenant of the freehold, and is advised and believes that there is good ground for disputing the demandant's claim to dower, and the Court or Judge may, after summons to or rule upon the demandant, order that such applicant be substituted as defendant in the action, in lieu of the tenant in possession, upon such conditions as shall to the Court or Judge appear just.

12. If no person be in actual occupation of the lands of which the demandant claims dower, the writ shall nevertheless be served on the tenant of the freehold, who shall be named therein.

13. The writ of summons may be served in Ontario, and the service shall be personal whenever that is practicable, but the demandant may, on affidavit, apply from time to time, either to the Court out of which the writ issued or to a Judge of either Court in Chambers, and if it appear to such Court or Judge that reasonable efforts have been made to effect personal service, and either that the writ has come to the knowledge of defendant, or that he wilfully evaded service of the same, and has not appeared thereto, such Court or Judge may, by rule or order, grant leave to the demandant to proceed as if personal service had been effected, subject however to such conditions as to the Court or Judge seem fit.

14. In all cases where the tenant of the freehold resides out of Ontario, the demandant may issue a writ of summons in the form above set forth by giving a sufficient number of days, not less in any case than twenty one, for the defendant to appear, according to the distance of the place of the defendant's residence, and having due regard to the means of and reasonable time for postal or other communication; which writ of summons shall bear the same