

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.

tuted as defendant.

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.

If no person in actual occupation, writ nevertheless to be served on tenant of freehold.

13. The writ of summons may be served in Upper Canada, 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 evades 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 seems fit.

Writ of summons to be served personally except in certain cases.

14. In all cases where the tenant of the freehold resides out of Upper Canada, 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 indorsement and notice or notices as the writ of summons hereinbefore set forth, making such changes as the nature of the case renders indispensable.

How writ of summons may be served where tenant resides out of U. C.

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 Upper Canada, 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 Upper Canada, 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.

Where writ served or reasonable efforts to serve defendant resident out of U. C. have failed but writ has come to defendant's knowledge, Court may direct demandant to proceed.

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 authorized by this Act to have the same assigned to her, unless the parties shall otherwise agree, and he shall forthwith serve the demandant 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.

Defendant may file appearance, and acknowledge tenancy.

Judgment of seizin and writ of assignment thereon.