

DOWER ACT OF 1868.

party at the Court of General Sessions of the Peace of the County in which the City is situate, to be held next after this Act shall take effect, and the conditions of all such recognizances shall be construed as if so expressed; and all recognizances conditioned that any person, whether as witness, prosecutor, defendant or otherwise, shall appear at any sitting of the Court of Oyer and Terminer or General Gaol Delivery for the County of the City of Toronto, to be held next after this Act shall take effect, shall be obligatory to compel the appearance of such party at the sitting of the Courts of Oyer and Terminer and General Gaol Delivery for the County of York, which shall be held next after the passing of this Act, and the condition of all such recognizances shall be construed as if so expressed.

23. Nothing herein contained shall render invalid any indictment, information, action, or proceedings heretofore prosecuted, had, taken or pending in any sitting of the Courts of Assize and *Nisi Prius*, Oyer and Terminer, or General Gaol Delivery for the County of the City of Toronto; but all such indictments, informations, actions and proceedings shall be transferred to, and may be continued, prosecuted and proceeded with in the Courts of Assize and *Nisi Prius*, Oyer and Terminer and General Gaol Delivery for the County of York.

24. Nothing in this Act contained shall alter or affect the existing arrangements between the City of Toronto and the County of York respecting the use of the Gaol.

25. All enactments inconsistent with any of the provisions of this Act are hereby repealed, but no Act previously repealed shall be thereby revived.

26. This Act shall take effect from and after the first day of February next.

FORM A.

And the plaintiff, in order to expedite proceedings in this case, having elected to try the issues (or *assess the damages or as well to try the issues as to assess the damages, as the case may be*) at the sittings of the County Court of the County of ———, to be held at ———, in the said County, on the ——— day of ———, 18—, the said issues will be tried (or *the said damages will be assessed, or both as the case may be*) at the said sittings accordingly.

FORM B.

And the Jury (or *Judge*) at the said County Court found that (*stating the finding on the issues, or as the case may be*) and the Jury (or *Judge*) at the said County Court assessed the damages of the plaintiff at ——— over and above his costs; therefore, it is considered, &c., (*as the case requires*).

FORM C.

And the plaintiff, in order to expedite proceedings in this case, having elected to try the issues (or *assess the damages or both as the*

case may be) at the sittings of Assize and *Nisi Prius*, to be holden at ———, in and for the County of ———, on the ——— day of ———, 18—, the said issues will be tried (or *the said damages will be assessed, or both as the case may be*) at the said sittings accordingly.

FORM D.

And the Jury (or *Judge*) at the said sittings of Assize and *Nisi Prius* found that (*stating the finding on the issues or as the case may be*) and the Jury (or *Judge*) at the said sittings of Assize and *Nisi Prius* assessed the damages of the plaintiff at ——— over and above his costs; therefore, &c., (*as the case requires*).

AN ACT

To alter the Law of Dower and to regulate proceedings in actions for the recovery of Dower in Upper Canada.

[Assented to 19th December, 1868.]

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The twenty-eighth chapter of the Consolidated Statutes of Upper Canada, intituled: *An Act respecting the procedure in actions of Dower* and the Act passed in the twenty-fourth year of Her Majesty's Reign, intituled: *An Act for the better assignment of Dower in Upper Canada*, are repealed upon, from and after the day this Act shall come into force.

2. All actions of right of dower or of dower *unde nihil habet* shall be brought and carried on according to the provisions of this Act.

3. Dower shall not be recoverable out of any separate and distinct lot, tract or parcel of land, which, at the time of the alienation by the husband or at the time of his death, if he died seized thereof, was in a state of nature, and unimproved by clearing, fencing or otherwise for the purpose of cultivation or occupation; but this shall not restrict or diminish the right to have woodland assigned to the demandant under the thirty-first section of this Act, from which it shall be lawful for her to take firewood necessary for her own use, and timber for fencing the other portions of land assigned to her of the same lot, tract or parcel.

4. Every action for dower shall be commenced by writ of summons, which shall be addressed to the person in actual possession of the land out of which dower is claimed, and to every other person who is tenant of the freehold of the same land, and in every such writ, and in every copy thereof, the place and county of the residence and abode of each party defendant shall be mentioned, and the land or property out of which dower is claimed shall be described by the number of the lot or otherwise, with reasonable certainty, and such writ shall be tested as in personal actions, and may be according to the form following: