

## QUEBEC.

## Civil Code of Lower Canada.

1426. There are two kinds of dower, that of the wife and that of the children. These dowers are either legal or customary, or prefixed or conventional.

1427. Legal or customary dower is that which the law, independently of, any agreement, and as resulting from the mere act of marriage, establishes upon the property of the husband in favor of the wife as usufructuary, and of the children as owners. C.C. 1260.

1434. Customary dower consists in the usufruct (use) for the wife, and ownership for the children, of one-half of the immoveable which belong to the husband at the time of the marriage, and one-half of those which accrue to him during marriage from his father or mother or other ascendants. C. C. 954.

1436. The customary dower resulting from a second marriage, when there are children born of the first, consists in one-half of the immoveables not affected by the previous dower, which belong to the husband at the time of the second marriage or which accrue to him during such marriage from his father or mother or other ascendants. The rule is the same for all subsequent marriages which the husband may contract when there are children of previous marriages.

1428. Prefixed or conventional dower is that which the parties agreed upon by the contract of marriage.

1429. Conventional dower excludes customary.

1437. Conventional dower when there is no agreement to the contrary also consists in the usufruct for the wife and the ownership for the children of the portion of the moveables or immoveable property which constitutes it according to the contract. The parties may, however, modify this dower at will.

1440. Conventional dower is taken from the private property of the husband.

1438. Dower, whether customary or conventional, is a right of survivorship which opens with the death of the husband.

It may, however, be opened and become exigible "by separation of bed and board or by separation of property only, if such effects result from the terms of the contract of marriage. It may likewise be demanded in the case of the absence of the husband under the circumstances and conditions expressed in articles 100 and 110." C. C. 36, sec. 2, 303, 1322.

1463. The wife may be deprived of her dower by reason of adultery or desertion.

In either case an action must have been instituted by the husband and a subsequent reconciliation must not have taken place.

1464. A wife may also be declared to have forfeited her dower by reason of the abuse she has made of her enjoyment. (She is obliged to keep it in reasonable repair).