

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1858. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1858.

21 Victoria – Chapter 25

An Act relating to Dower. Passed 6th April 1858.

Section.

1. Dower and arrears assignable.
2. Order for view, and return of Viewers as Jurors.
3. Interlocutory judgment and proceedings on non-appearance.

Section.

4. Equity of dower in inure in a certain case.
5. Dower to inure where husband shall have had right of entry, &c.
6. Act not to extend to suits now pending.
7. Execution as in Action of Ejectment.

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. Dower and all arrears may be assigned and recovered in an action of ejectment with costs.
2. A Judge in case of defence shall make an order directing a view to be had, and the proceedings thereon shall be the same as heretofore had under a writ of view; and the Sheriff upon request shall deliver to either party the names of the viewers, and shall also return such names attached to the order to the Clerk of Nisi Prius, who shall call them as Jurors upon the trial, which return shall be the panel in such cause.
3. If no appearance be entered, interlocutory judgment may be signed as in ordinary cases, and the plaintiff may proceed by writ (A).
4. Where a husband shall die beneficially entitled to any lands for an interest which shall not entitle his widow to dower out of the same at law, and such interest whether wholly equitable, or partly legal and partly equitable, shall be an estate of inheritance in possession (other than an estate in joint tenancy,) the widow shall be entitled in equity to dower out of the same land.
5. Where a husband shall have been entitled to a right of entry or action in any land, and his widow would have been entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same, although her husband shall not have recovered possession thereof, if such dower be sued for or obtained within the period during which such right of entry or action might be enforced.
6. Nothing in this Act contained shall extend to actions or suits in dower now pending, but the same may be prosecuted in like manner as if this Act had not been passed.
7. The execution shall be in like manner as in the action of ejectment, as near as may be.

SCHEDULE.

(A)

Victoria, &c. To the Sheriff of _____

We command you, that you summon seven men of your County as a Jury of inquiry, to assign the Dower and to ascertain the arrears thereof in the following action, [here insert declaration] and make return hereof and of the verdict of the Jury to us forthwith. Witness, &c.