

IN HOUSE.

House Bill No. 22.

MONDAY, JANUARY 22, 1894.

AN ACT to amend and re-enact article three (3) of an act, entitled "An act relating to husband and wife, and entitled 'Husband and wife,'" approved May 16, 1893.

The following substitute proposed for said bill was ordered to be printed, and made special order for Tuesday, January 30, 1894, at 11:15 A. M.:

Be it enacted by the General Assembly of the Commonwealth of
2 *Kentucky*: That article III. (3) of an act, entitled "An act relating
3 to husband and wife, and entitled 'Husband and Wife,'" approved
4 May 16, 1893, be, and it is, amended and re-enacted, so as the same
5 shall read as follows:

§ 32. Marriage shall give to the husband, during the life of the
2 wife, no estate or interest in the wife's property, real or personal,
3 owned at the time or acquired after the marriage. During the
4 existence of the marriage relation, the wife shall hold and own all
5 her estate to her separate and exclusive use, and free from the
6 debts, liabilities, or control of her husband. No part of a married
7 woman's estate shall be subjected to the payment or satisfaction
8 of any liability, upon a contract made after marriage, to answer

9 for the debt, default, or misdoing of another, including her
 10 husband, unless such estate shall have been set apart for that
 11 purpose by deed of mortgage or other conveyance; but her estate
 12 shall be liable for her debts and responsibilities contracted or
 13 incurred before marriage, and for ^{all} such contracted after marriage
 14 for necessities for herself or any member of her family, her
 15 husband included, as shall be evidenced by writing signed by her.

*except
 as is
 this
 family law*

§ 33. A married woman may take, acquire and hold property,
 2 real and personal, by gift, devise or descent, or by purchase, and
 3 she may, in her own name, as if she were unmarried, sell and dis-
 4 pose of her personal property, and may make contracts with ref-
 5 erence to the same. She may not make any executory contract
 6 to sell or convey or mortgage her real estate, unless her husband
 7 join in such contract; but she shall have the power and right to
 8 rent out her real estate, and collect, receive and recover in her own
 9 name the rents thereof, and make contracts for the improvement
 10 thereof.

§ 34. A married woman may carry on any trade or business
 2 and perform any labor or service on her sole and separate account,
 3 and the earnings and profits of any married woman accruing
 4 from her trade, business, services or labor shall be her property,
 5 and shall be payable to and collectible by her.

§ 35. Husband and wife may sell and convey her lands or chat-
 2 tels real, but the conveyance must be acknowledged and recorded
 3 in the manner and time required by the chapter on conveyances,
 4 and the proceeds shall be her property in the same right as was
 5 the land.

§ 36. The husband shall not be liable for any debt or responsi-
 2 bility of the wife contracted or incurred before or after marriage,
 3 except to the amount or value of ^{The} ~~personal~~ property he may re-

4 ceive from or by her, but shall be liable for necessaries furnished
5 to her after marriage.

§ 37. When the husband abandons the wife and lives separate
3 and apart from her, or abandons her without making sufficient
3 provision for her maintenance, or when he is confined in the peni-
4 tentiary for an unexpired term of more than one year, or when he
5 becomes permanently deranged in his mind, the wife, by judg-
6 ment of a court of equity, may be empowered to sell and convey,
7 by her own deed, any of her real estate freed as to it and its pro-
8 ceeds from any claim of her husband: *Provided*, That in case of
9 insanity he shall have been adjudged a lunatic by a court of com-
10 petent jurisdiction.

§ 38. After the death of either the husband or wife, the survivor
2 shall have an estate for his or her life in one-half of all the real
3 estate owned by the deceased, or held by any one to his or her use,
4 and an absolute estate in one-half of all the surplus personalty left
5 by such decedent; ^{or in lieu of such estate} or the wife, at her election, to be made within
6 one year after the husband's death, shall be endowed, for her life,
7 of one-third of the real estate of which he, or any one for his use,
8 was seized of an estate in fee-simple during the coverture, unless
9 her right to such dower shall have been barred, forfeited, or relin-
10 quished.

§ 39. If the wife voluntarily leave her husband and live in adul-
2 tery, or if the husband voluntarily leave his wife and live in
3 adultery, the party so offending shall forfeit all right and interest
4 in and to the property and estate of the other, unless they after-
5 wards become reconciled and live together as husband and wife.

§ 40. If the husband, during the coverture, was seized in law of
2 the fee-simple of any real estate, then the wife, if she survive him,

3 may have dower therein, although the husband may not have had
4 the actual possession thereof.

§ 41. The wife shall not be endowed of land sold, but not con-
2 veyed by the husband before marriage, nor of land sold, in good
3 faith, after marriage, to satisfy a lien or incumbrance created be-
4 fore marriage, or created by deed in which she joined, or to satisfy
5 a lien for the purchase money; but if there is a surplus of the land
6 or proceeds of sale after satisfying the lien, she may have dower
7 out of such surplus of the land or compensation out of such sur-
8 plus of the proceeds, unless they were received or disposed of by
9 the husband in his lifetime.

§ 42. A conveyance or devise of real or personal estate, by way
2 of jointure, may bar the wife's interest in the property and estate
3 of her husband; but if made before marriage, without her con-
4 sent, or during her infancy, or after marriage, she may, within
5 twelve months after her husband's death, waive the jointure by
6 written relinquishment, acknowledged or proved before, and left
7 with, the clerk of the county court, and have her dower or share
8 of his estate as herein provided. When she so demands and re-
9 ceives her dower, or such share of his estate, the estate conveyed
10 undevise in lieu thereof shall determine and revert to the heirs
11 or representatives of the grantor or devisor.

§ 43. Where the wife is lawfully deprived of her jointure, or any
2 part thereof, and not by any act of her own, she shall have in-
3 demnity therefor out of her husband's estate.

§ 44. If the wife elect to take dower, she shall be entitled to
2 one-third of the rents and profits of her husband's dowable real
3 estate from his death until dower is assigned, and she shall hold
4 the mansion-house, yard, garden, the stable and lot in which it
5 stands, and an orchard, if there is one, adjoining any of the

6 premises aforesaid, without charge therefor, until dower is as-
7 signed her.

§ 45. Whether the recovery is against the heir or devisee or
2 purchaser from the husband, the wife shall be endowed according
3 to the value of the estate, when received by the heir, devisee or
4 purchaser, so as not to include, in the estimated value, any per-
5 manent improvements he has made on the land, against the heir
6 or devisee or his alienee, her claim for rent shall not exceed five
7 years before action, and against a purchaser from the husband
8 shall only be from the commencement of the action, and in either
9 case it shall continue up to final recovery. If, after action
10 brought, the widow or tenant dies before recovery, the rent may
11 be recovered by her representative, and against his heirs, devisees
12 and representatives.

§ 46. The wife shall not be barred of dower by reason of any
2 judgment rendered by default or collusion against the husband, if
3 she would be entitled to dower had there been no such judgment ;
4 nor shall an heir be bound by any collusive or *ex parte* assign-
5 ment of dower to the wife, except so far as she shows herself to
6 have been justly entitled thereto.

§ 47. Where the lands are not severally held by different
2 devisees or purchasers, it shall not be necessary to assign dower
3 out of each separate portion, but an equitable allotment may be
4 made in one or more parcels in lieu of the whole.

§ 48. If the husband held land by executory contract only, the
2 wife shall not be endowed of the land, unless he owned such
3 equitable right at his death.

§ 49. If real estate be conveyed or devised to husband and wife,
2 unless a right by survivorship is expressly provided for, there shall
3 be no mutual right to the entirety by survivorship between them,

4 but they shall take as tenants in common, and the respective
5 moieties be subject to the respective rights of the husband or wife
6 as herein fixed, with all other incidents to such tenancy.

§ 50. Divorce from the bond of matrimony shall bar all claim
2 of either husband or wife to the property, real and personal, of
3 the other after his or her decease.

§ 51. Whenever a married woman has become a confirmed
2 lunatic, the circuit court of the county in which is situated land
3 belonging to the husband of such woman may, upon the petition
4 of her husband, adjudge the sale and conveyance of the inchoate
5 right of dower of such married woman. The wife and her
6 committee, if she have one, shall be made defendants to said
7 action; if she have no committee, the court shall appoint an attor-
8 ney to defend for her, to whom the court shall make a reasonable
9 allowance to be paid by the husband. A description of said land
10 shall be given in said petition, and the husband's evidence of title
11 filed therewith. If the court be satisfied by the proof that the
12 wife is a confirmed lunatic, it may adjudge the sale and conveyance
13 of her inchoate right of dower in said land; and if she has a
14 committee, the court may direct that he unite with the husband
15 in the deed conveying said land; or, if she has no committee, the
16 court shall appoint a commissioner, who shall unite with the
17 husband in such conveyance. A deed so executed shall pay such
18 wife's inchoate right of dower. Before any judgment pursuant to
19 this section shall be rendered, the husband, with at least two good
20 sureties, shall execute, before the court, a covenant to the Com-
21 monwealth for the benefit of the wife, to be approved by the court,
22 that she shall be paid the value of her right of dower in said land
23 should such right thereafter become complete.

§ 52. The wife of an infant husband, or of a husband judicially

2 declared an idiot or lunatic or imbecile, if she be of the age of twen-
3 ty-one years, or if not, with the approval of the circuit court, on such
4 terms as it may deem equitable, may unite with his guardian or
5 committee, or with the commissioner of the court, in the convey-
6 ance of his real estate, so as to release her prospective right of
7 dower, when a sale and conveyance thereof, are ordered to be
8 made by the guardian or committee, or by the commissioner or
9 other officer of the court. A wife not of full age may also be per-
10 mitted by the circuit court to unite with her adult husband in the
11 conveyance of his real estate without terms, or on such as may
12 be deemed equitable, so as to release her prospective right of
13 dower. If in judicial proceedings to sell the real estate of an in-
14 fant husband, or of a husband judicially declared an idiot, im-
15 becile or lunatic, his wife is made a party-defendant, and by her
16 answer, and on privy examination in open court, or by a judge of
17 a court wherein such proceedings are pending, or by a commis-
18 sioner appointed by the court to take the same, she consents to a
19 sale of the property, free from her prospective right of dower,
20 either without terms or on terms by her designated, the court
21 may, if it deems the terms of such consent equitable, order the
22 sale of such property, free from her prospective right of dower,
23 upon the terms of consent proposed by such wife.

§ 53. Separate estates and trust estates conveyed or devised to
2 married women may be sold and conveyed in the same manner
3 as if such estates had been conveyed or devised absolutely, if
4 there be nothing in the deed or will under which they are held
5 forbidding the same, and if the husband and trustee, if there be
6 one, unite with the wife in the conveyance, but her interest
7 in the proceeds shall be the same as it was in the estate.

§ 54. A married woman, if she be of sound mind and twenty-
2 one years of age, may dispose of her estate, by last will and
3 testament, subject to the provisions of this act.