

Appeal to surrogate general. 20. That it shall be lawful for any widow, heir or heirs, or guardian of any minor child, or any purchaser who shall conceive himself or herself aggrieved by the proceedings, judgment or decree under this act, of any orphans' court, at any time within twenty days after the final judgment or decree, to give notice in writing of the causes of complaint, and of his or her intention to apply to the surrogate general, at the next stated term to be holden after such notice for relief, who shall review the proceedings, judgment or decree complained of, and do therein what shall be just. (a)

Where lands in several counties. 21. That where a husband shall die seized of lands or real estate in two or more counties, it shall be lawful for the ordinary or surrogate general, to appoint commissioners to admeasure and set off dower as aforesaid, and to proceed therein in all respects as the orphans' court are by this act authorized to proceed for the making admeasurement of dower as aforesaid.

Fees. 22. That the fees to be allowed, taxed and taken by the surrogates, orphans' courts and surrogate general and other officers, shall be the same as those allowed by law for similar services in other cases.

Costs taxed, apportioned and paid. 23. That the charges of the commissioners for their services in making of the said admeasurement of dower, and the costs arising and accruing on any proceeding under this act, commenced in the orphans' court or prerogative court, shall be taxed by the surrogate or clerk of the court in which the proceedings may be had, and paid in the first instance by the petitioner or petitioners; and the said costs and charges shall be divided and apportioned by the court among the persons concerned, according to their respective interests in the lands and real estate, out of which the dower shall be so assigned; and in case any person or persons concerned shall not, on demand, pay his, her or their proportion of such costs and charges, that then the petitioner or petitioners shall and may recover the same by the judgment and process of the court or by an action of debt, in any court having cognizance thereof; but in all cases of appeal, each party shall pay his, her or their own costs.

When quarantine to cease. 24. That after dower shall be assigned to a widow by virtue of this act, nothing in the second section of this act shall be considered as entitling her to remain in and to hold and enjoy the mansion-house of her husband, and the messuage or plantation thereto belonging, except such part thereof as may be assigned to her for dower, without being liable to pay rent for the same.

P. L. 1870, p. 22.

Supplement.

Approved March 10, 1870.

Wife of trustee not to have dower in the trust estate.

25. SEC. 1. That whenever any deed, conveyance or will heretofore or hereafter made, vests the title to lands in a trustee or trustees to hold in trust for the benefit of the *cestui que trust*, and a provision of trust appears on the face of the deed, conveyance or will, the wife of the trustee or trustees shall not have any right or claim of dower in said trust estate, but the trustee or trustees, by his or their individual deed, may convey the same free from any dower right of his or their wives.

(a) Each of the tenants is entitled to relief whether the assignment is illegal and unequal as between the widow's dower and the entire estate, or as between such dower and an individual interest. *Matter of Garrison, 2 McCart. 394.* After an appeal the proceedings may be continued in the prerogative court, *Osborn v. Rogers, 4 C. E. Gr. 429.*

Drunkards.

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| 1. Appointment of guardians by the orphans' court. Powers and duties. | 5. Petition of wife or child not received. |
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An act relative to habitual drunkards.

P. L. 1853, p. 237.

Approved March 3, 1853.

Appointment of guardians by the orphans' court.

1. It shall be lawful for the court of chancery to issue a commission, in the nature of a writ *de lunatico inquirendo*, as heretofore practised and

allowed, and returnable thereto, to inquire into the habitual drunkenness of any person in this state, having real or personal estate therein, and in case of habitual drunkenness found, by reason of which such habitual drunkard has become incapable of managing his estate, or is wasting the same, the chancellor shall cause to be transmitted to the orphans' court of the county where such habitual drunkard may reside, a certified copy of all proceedings which may be had thereon, which shall be recorded and filed in the surrogate's office of said county, and thereupon the said orphans' court, upon application for that purpose, is hereby directed and required, to appoint a guardian or guardians for such habitual drunkard, who shall have the same power over the estate of said habitual drunkard, and perform the same duties, and be subject to the same liabilities, as are conferred on and required of the guardian of an idiot or lunatic by the act entitled "An act concerning idiots and lunatics," approved April sixteenth, eighteen hundred and forty-six.

Powers and duties.

2. Upon the death of any such habitual drunkard, intestate or without any will, except such as was executed during the existence of said inquisition, his personal estate shall be distributed according to law among his next kin, and his land shall descend and go to his heirs.

Property, how distributed on death.

3. The like powers are hereby conferred on the orphans' courts, and the like proceedings shall be had relative to a sale of timber or lands of an habitual drunkard, as are required in the act entitled "An act concerning idiots and lunatics," aforesaid.

Sale of lands.

4. After such inquisition found as aforesaid, and until the same be determined, such habitual drunkard shall be divested of all power and control over and legal estate in his property, real, personal, or in action, and the same shall be vested in his guardian in trust for him, and no contracts made by him shall bind either his person or estate.(a)

After inquisition control of property in guardian.

5. No petition for on inquisition as aforesaid, by a wife against her husband, or by a child against his or her parent, shall be received or acted on.

Petition of wife or child not received.

6. If any innkeeper, distiller, grocer, or other person, shall receive notice from the guardian of the estate of an habitual drunkard, not to furnish or supply him with intoxicating liquor and shall after such notice sell, or in any manner furnish or supply any intoxicating liquor to such drunkard, or any person for him, every person so selling or furnishing shall forfeit and pay the sum of ten dollars, for each and every time he or they may sell or furnish the same, to be recovered in an action of debt, one-half to any person who shall sue for the same, and one-half to the overseers of the poor of the township in which suit may be brought.

Penalty for selling intoxicating liquors to drunkard.

7. It shall be lawful for the chancellor, on petition by the party setting forth that he is reformed and has become habitually sober, and has continued so for one year next preceding, to take proof of the fact, and if he shall be satisfied of the truth of the allegation in such petition, to make an order that the commission issued, and inquisition taken thereon, and proceedings relating thereto, be altogether superseded and determined; and in case the inquisition aforesaid shall be superseded and determined, his estate shall be restored to him.(b)

Proceedings, when and how superseded and determined.

Supplement.

Approved March 20, 1857.

P. L. 1857, p. 474.

8. SEC. 1. All the jurisdiction and powers conferred upon the chancellor and the court of chancery, as to the lands and real estate of idiots and lunatics, by the act entitled "A supplement to an act entitled an act concerning idiots and lunatics," approved February twenty-sixth, eighteen hundred and fifty-two, shall be and hereby are conferred upon the chancellor, and the court of chancery, as to the lands and real estate of any person who has been, or shall be found an habitual drunkard, in accordance with the provisions of the act to which this act is a supplement; and, for the sale and conveyance of the lands or real estate of any habitual drunkard, the same proceedings and practice shall be pursued and had as are by law required to be had and pursued, to make sale and conveyance of the lands of an idiot or lunatic.

Jurisdiction and power of chancellor as to lands, etc.

(a) Suit on a note made by such drunkard before the appointment of his guardian, must be brought against the drunkard, *Coombs ads. Jantver*, 2 Vr. 240.

(b) The practice is substantially the same as in cases of lunacy, *Matter of Weis*, 1 C. Gr. 318.