

son or persons owning lands adjoining such highway, at the place or portion of such highway being so improved according to the terms of this act, then and in such case the damages so sustained shall be paid out of the treasury of the county.

Duty of rail-road company to build stone abutments.

SECTION 7. It is made the duty of the Chicago, Milwaukee and St. Paul Railway Company, within sixty days from the letting of the contract by the county board of supervisors to build the stone abutments provided for in section two of this act, and to complete said viaduct and bridge with all reasonable dispatch.

SECTION 8. This act shall take effect and be in force from and after its passage.

Approved March 8, 1877.

[Published March 23, 1877.]

CHAPTER 280.

AN ACT in relation to the release of dower in real estate by insane persons.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Husband of insane wife may petition to mortgage, or dispose of estate in which wife has dower interest.

SECTION 1. Whenever any married man shall, by petition duly verified by his oath, represent to the circuit court of the county in which he resides that his wife is insane, and that he is the owner of real estate in which his wife has an inchoate dower interest, and that it would be for his interest to mortgage, convey or otherwise dispose of any or all of said real estate or any interest therein, or that he has mortgaged, conveyed or otherwise disposed of any such real estate or any interest therein, and praying for an order authorizing the husband or some other person to execute a deed or deeds of any such real estate for said wife, relinquishing the dower or homestead interest of such wife therein, the court shall by order appoint some certain time and place for the hearing of said petition, not more than sixty nor less than twenty days from the time of filing such petition, a copy of which petition and order shall be served on such wife and next of kin, if any, at least twenty days before the time so appointed, and shall also appoint some suitable and discreet person to act as the guardian for such wife in relation to said application and the matters therein em-

Duty of court to hear petition and appoint guardian for wife.

braced, upon whom a copy of said petition and order shall be personally served at least fifteen days before the time fixed for such hearing. It shall be the duty of such guardian to ascertain as to the propriety, good faith and necessity of the prayer of the petitioner being granted, and he shall have power to resist said application and subpoena witnesses and take depositions to disprove the allegations of said petition, or to show the impropriety of granting the prayer thereof.

Duty of guardian.

SECTION 2. If any such wife shall not be a resident of this state, such order or petition shall be served on her at least ninety days and on the guardian so appointed at least sixty days before the time appointed for such hearing, and no such application shall be granted except upon a hearing and proofs produced in open court showing that said wife is insane, and the propriety, good faith and necessity thereof, and that the same will be for her benefit; and upon the hearing thereof such court shall have the power and it shall be its duty to require as a condition of granting the prayer thereof that such sum shall be secured for the use and benefit of said wife out of the estate of such husband or the proceeds of such real estate as a condition and consideration for the relinquishment of such homestead or dower right in such manner as the court shall direct and prescribe, as the court shall under all the circumstances of the case deem just and proper, regard being had to the station and condition in life of the said husband and wife.

When wife not a resident of this state, order to be served on her.

Court to require provision for benefit of wife.

SECTION 3. Upon the hearing of said petition, if the court shall be satisfied that the same is made in good faith, and that the prayer of said petitioner ought to be granted, it shall make a decree directing the execution of a deed of relinquishment to the proper party or parties of such dower right, as the case may be, and fixing the terms and conditions pursuant to the act, upon compliance with which the same shall be executed, and shall direct in such event, said husband or such other person as the court shall designate, to execute in the name of such wife a proper deed or deeds of relinquishment to the proper party or parties of the dower right of the wife in or to any lands so mortgaged, sold or conveyed by such husband during her insanity, or to any lands he may desire to mortgage, sell and convey, while she is so insane, specified and described in such decree.

Duty of court in granting petition.

SECTION 4. It shall be lawful and competent at the hearing of such petition for such wife or her guardian

Right of wife to deny allegations of petition

to deny by answer any or all of the allegations of said petition, and if demanded by her or her guardian, the issue thereon shall be tried, after being settled by the court, by a jury in like manner as in other cases, and either party may appeal from any decree made on such petition in like manner and subject to the same conditions as from judgments in civil actions.

Court may require security for support of wife.

SECTION 5. The court may, before rendering a decree for such relinquishment of dower, require the said husband to execute a bond, with sufficient sureties to such guardian in such sum as it shall deem reasonable, conditioned for the support and maintenance of such insane wife, and that if such insane wife shall survive her said husband, then that there shall be paid to her annually, during her life, for her sole use and benefit, such sum as the court shall deem just and reasonable.

Validity of deeds of relinquishment.

SECTION 6. All deeds of relinquishment executed under and in pursuance of such decree, as herein provided, shall be valid in law, and shall convey all the dower interest of such insane wife in and to any and all real estate so sold and conveyed by said husband during her insanity, and shall forever bar and preclude her from asserting any claim for dower in or to the same and each and every part thereof; but any power so granted for the relinquishment and barring her dower interest therein shall cease and become void as soon as such wife shall become sane and of sound mind, and shall apply to revoke said decree, and said decree shall be revoked, but such revocation thereof shall in no wise affect any conveyance or relinquishment previously made thereunder.

Relinquishment of dower by wife in estate of insane husband.

SECTION 7. If any real estate of an insane husband shall be sold by his guardian by order of court, the wife of such insane husband may relinquish her dower in such real estate by a separate release or conveyance.

Repealed.

SECTION 8. All acts and parts of acts contravening the provisions of this act are hereby repealed, and this act shall take effect and be in force from and after its passage and publication.

Approved March 8, 1877.