

EAST FLORIDA HERALD.

TERRITORIAL LAWS.

An Act Concerning Dower and Joindre in Lands and Slaves of Widows.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That, if any testator shall devise or bequeath to his wife any portion of his estate, such devise or bequest, shall be deemed, and be taken in lieu, and in place of Dower of the estate of the deceased husband; in like manner as if the same were expressed; unless such testator shall by his last will and testament declare otherwise, *Provided*, that nothing in this section contained shall deprive the widow of her choice, either to take the estate in fee or to the part or portion so devised or bequeathed to her; and if she shall and may be lawful for any such widow, who will make choice of her dower within one year from the time of the death of her husband, to take the same in fee, or by deed executed and acknowledged before any justice of the peace of the county; and to and enter in the clerks office of said court to declare that she will not except the provisions made for her by said will, or any part thereof, and renounce all benefits which she might claim by such will; but every widow not making such declaration within the time aforesaid, shall have no more of her husband's estate than is given to her by will.

Sec. 2. *Be it further enacted*, That every widow after the death of her husband may carry in the mansion place of her husband, and the plantation thereto belonging rent free, until her dower shall be assigned to her. And whosoever shall before said time of their dower of lands, or of the husband died seized, or of such mansion house or plantation, shall pay damages to the widow to the value of the whole dower to them belonging from the time of the death of their husbands until the day that they shall in the course of law recover possession of such dower.

Sec. 3. *Be it further enacted*, That any widow claiming dower in lands or slaves, may present her petition stating the circumstances of the case to the judge of the circuit court of the county where such lands and slaves in which the slaves may be found, of which she claims dower, in term time; or file her petition in vacation in the clerks office, whereupon it shall be the duty of the said court, in order, or of the clerk in vacation to issue, a summons endorsed with a notation directed to the person or persons against whom she complains, commanding such person or persons, to appear at the next term of said court, to answer the complaint of such widow, which petition and summons shall be served at least ten days before the time appointed therein for the defendant or defendants to appear.

Sec. 4. *Be it further enacted*, That the court to whom any such petition is presented, may after the service and return of the summons aforesaid, compel the defendant or defendants to answer, and may proceed upon such petition and answer, although any of the defendants may be under the age of twenty one years according to the course and rules of equity; and shall make such decree for the assignment of dower in such manner as shall be most agreeable to equity, and such assignment of dower shall be as effectual as if the same were in the ordinary method of the common law. And it shall further be the duty of such court in decreeing an assignment of dower, to require three respectable inhabitants of the county where such lands may lie, whose duty it shall be to proceed to the premises and by actual survey and measurement, to lay off and ascertain the boundary lines of such dower lands in said decree, to sign, certify and order of said court; and to return of their proceedings to

the next circuit court to be held for such county; And if such return is confirmed by the court, it shall be the duty of the court to cause such return and proceedings to be entered of record. And if any of the persons appointed as aforesaid, shall fail to take upon themselves the execution of said appointment, it shall be the duty of the court if in time to time to appoint others fill such duty to be completed.

Sec. 5. *Be it further enacted*, That if any marital facts are asserted by one party and denied by the other, the court shall at the request of either party cause such facts to be tried by a jury. And as to the final judgment or decision of the court in any case respecting dower may be had to the superior court of the proper county, as in other cases.

Sec. 6. *Be it further enacted*, That if a man may be lawful for any married woman to release her right of dower of, in and to any lands and tenements whereof the husband of such widow may be possessed or seized by any legal or equitable title during coverture, by joining such husband in the deed or conveyance, or grant, or conveyed, and appearing before any justice of the superior court, or circuit court of this Territory, or before any justice of the peace in the county where such lands and tenements are, or before the judge or justice to acquire such woman, with the contents of such deed or other conveyance and to examine her apart from her husband, whether she executed such deed or conveyance voluntarily and without compulsion, and if she is the wife of her husband, and to endorse a certificate of such examination as aforesaid, made on the deed or conveyance; and every deed executed, and certified by such judge or justice, that such woman executed the same voluntarily, and without undue influence of her husband, and recorded according to law, shall be sufficient to discharge and bar the claims of such woman upon any claim to dower in such lands and tenements conveyed by such deed or conveyance.

Sec. 7. *Be it further enacted*, That if any widow possessed of a slave or slaves as of the dower of her husband shall, remove, or voluntarily permit to be removed out of this territory, such slave or slaves or any of their increase, without the consent of her husband, or if any such widow shall fail to file and every such slave or slaves which she holds of the endowment of her husband unless by consent of the person or persons that shall by law be entitled to the reversion thereof. *Provided* nevertheless, that the consent of her husband in reversion cannot be had, it shall be lawful for said widow to take the slave or slaves so in her possession, of the endowment of her husband to the circuit court of the proper county, and there have their names, ages and descriptions recorded, and file the same with the clerk, who will then and there give good and sufficient security to be approved of by the court, to double the value of the slaves so to be removed conditioned, that the same slaves shall not be wasted, but shall be forthcoming to him, her or their next of kin, after the death of said widow, in case the slaves out live her or such part thereof with their additional increase; then in that case it shall and may be lawful for said widow to remove or permit to be removed said slaves, or any of them, in reversion to the contrary notwithstanding; But the consent of those in reversion shall supercede the necessity of such security.

Sec. 8. *Be it further enacted*, that if any widow possessed as aforesaid shall marry to a husband who shall be a citizen of the United States, and be removed out of this territory, such slave or slaves on any of their in-

crease without the consent of him, her, or them in reversion, in such case it shall and may be lawful for the person in reversion to take for his person in reversion to take and possess the same slaves which he holds in right of his wives dower, and during the life of said husband; *Provided*, that if said husband will have a description of his slaves, and their increase then in being recorded, and give security as herein before provided to be given by the widow removing said slaves, that then he may revoke the same, as in the case of the widows removing the same. But the consent of those in reversion shall supercede the necessity of giving such security.

Sec. 9. *Be it further enacted*, that nothing in this act contained shall be construed to effect any right which may have accrued, or been vested, prior to the commencement of this act. *Approved September 14, 1822.*

An Act Concerning Wills.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That every person twenty one years or upwards being of sound mind and not a married woman shall have power at his or her will and pleasure by last will and testament in writing, to devise all the estate right title and interest in possession, remainder or reversion, which he or she hath, or at the time of his or her death shall have, in or to lands tenements, or hereditaments, rents, goods or chattels, so as such last will and testament be signed by the testator or testatrix, or by some other person in his or her presence, and by his or her directions; and moreover if not wholly written by him or her, it shall be attested by two or more competent men as subscribing their names in his or her presence—saving to the widow of testators their right of dower in lands and tenements which shall not be prejudiced by the devise thereof.

Sec. 2. *Be it further enacted*, That slaves so far as respects wills and testaments, and marriage if his husband over the estate of the wife shall be considered real estate and pass by will and testament of persons being possessed of the right of subject to the same regulations as limited property.

Sec. 3. *Be it further enacted*, That no will in writing, or any devise therein, or chattels shall be revoked by any subsequent will, codicil or declaration unless the same be in writing and accompanied with the formalities required by the laws in due execution of the will thereby revoked.

Sec. 4. *Be it further enacted*, That if any testator make a last will and testament when he have no child living wherein any child he might have is not provided for, such will shall have no effect, after the death of said testator unless he dies unmarried and without issue before he attains the age of twenty one years—when a testator having a child or children born before making his last will and testament, a child shall be born afterwards neither provided for, nor disinherited, he shall succeed to the same portion of the estate as he would have been entitled to had the father died intestate, towards raising which the devisees and legatees shall contribute proportionally out of the parts devised or bequeathed to them.

Sec. 5. *Be it further enacted*, That no nuptialive will shall be established unless it be made in the time of the last illness of the deceased, and unless he call upon two or more disinterested persons to take notice and bear testimony of such verbal will or words of gift. And after six months have elapsed no testimony shall be received to establish a nuptialive will, unless the testimony or substance thereof was taken down in writing by the witness in six days after they were spoken.

Sec. 6. *Be it further enacted*, That authenticated copies of wills proved and recorded in any of the United States, or in any other country relative

to any estate in this territory, shall be admitted to record in the circuit court of this territory and have the same force and effect as if proved as above directed.

Sec. 7. *Be it further enacted*, That nothing in this act contained shall be construed to affect the rights already vested by the pre-existing laws in married females in regard to their power of bequeathing their separate property.

[Approved August 21, 1822.

An Act Relating to Conveyances.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That no purchase for valuable consideration not having notice thereof, or any creditor unless the same writing be acknowledged by the party or parties who shall have sealed and delivered it, or be proved by two or more good and credible witnesses, to the clerk of the circuit court of the county where the land lies or some part thereof until the same is delivered for record in said office.

Sec. 2. *Be it further enacted*, That if the party who shall sign and seal such instrument be a party to the Territory, the acknowledgment of such party before any court of record in the state or territory where he may reside, or the proof of the requisite number of witnesses to the signing and sealing of said instrument being duly authenticated as aforesaid, and the acts are in the state or territory where the same is made, shall be produced to the clerk of the circuit court in this territory in the county where the land lies, it shall be recorded and the date of its date in said territory as if the same had been acknowledged or proved as above directed.

Sec. 3. *Be it further enacted*, That when any husband and wife shall sign and seal a conveyance of any tract of land, if the same be in and recorded examined privily 2d apart from her husband, or out of court by the clerk of the court or by two justices of the peace, and if it be of land out of the county it shall be examined by two justices of the peace, or if it be out of the territory before any court of record and certified by said court it shall be received as a relinquishment of the right of dower in the land so conveyed, and the same shall be a valid conveyance and a perpetual bar to the right of dower in the land.

Sec. 4. *Be it further enacted*, That any person or persons giving a power of attorney to sell and convey lands if he reside in a different county or out of the territory shall have the same recorded and certified as conveyances are directed to be as above provided, by contract or operation of law, when any estate hath been or shall be limited by any conveyance in remainder to the son or daughter or to the use of the son or daughter of any person to be begotten, such son or daughter born after the devise. *Be it further enacted*, That the estate in the same manner as if he or she had been born in the life time the father although no estate shall