

Stephen C. Gregory
Proponent Testimony for House Bill 209
May 28, 2019
House Civil Justice Committee

Chairman Hambley, Vice Chair Patton, Ranking Member Brown, and members of the House Civil Justice Committee: Thank you for the opportunity to provide proponent testimony for House Bill 209.

I am a member of the Ohio , Virginia and West Virginia Bars, employed as underwriting counsel for a national title insurance underwriter. Relevant to this inquiry, however, I was in private practice in the Commonwealth of Virginia when the legislature abolished dower in 1992. Much as here in Ohio, dower in Virginia was an impediment to the transfer of real property under certain circumstances; also much as here, the domestic bar in Virginia voiced concerns that spouses would not have adequate protections if the bill passed.

To assuage the domestic practitioners that Snidely Whiplash couldn't tie his spouse to the economic train tracks, the legislature created the concept of the "augmented estate." The idea can be condensed to the spouse having an interest in *the value* of the property rather than an interest in the property itself. Thus, in its simplest form, a spouse either had the property or the financial equivalent. As long as the real estate was conveyed to a bona fide purchaser for value, the spouse was not required to sign the instrument of conveyance.

Clearly the above is an over-simplification, but the result was as intended—no spouses were harmed in the making of this sausage—I mean law. To my knowledge, there has not been a case in Virginia in which a spouse was left unprotected after the abolition of dower who would have been protected prior to 1992.

Although I wasn't practicing in West Virginia when dower was abolished a year later, I am similarly unaware of any case in which a spouse was prejudiced by the abolition.

Contrarily, I have had numerous cases of missing marital notations or interests sent to me in my capacity as underwriting counsel, requesting authority to insure notwithstanding the omission. With the state of dower as currently constituted in Ohio, we have to decline in almost all circumstances—delaying or in some cases completely halting real estate transactions.

I urge the legislature to give due consideration to enacting this legislation.

Thank you again Chairman for the opportunity to testify on House Bill 209. I would be happy to answer any questions that members of the Committee may have.