

CHAPTER XLVI.

An Act to amend chapter fifty-three of the Compiled Statutes, relating to divorces.

March 3, 1865.

- SECTION 1. Court may further order alimony.
 2. When wife entitled to dower.
 3. In such case, court may make further allowance to wife.
 4. Complaint and notice—how served on defendant.
 5. Repeal of inconsistent acts.
 6. When act to take effect.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. Section twenty-three of chapter fifty-three, of the compiled statutes is hereby amended so as to read as follows :

Section 23. Upon every divorce from the bond of matrimony, in an action brought by the wife, and in all cases where it is made fully to appear that in the causes leading to the divorce, justice and equity are on the side of the wife, if the estate and property restored or awarded to the wife shall be insufficient for the suitable support and maintenance of herself and such children of the marriage as shall be committed to her care and custody, or if there be no such estate and property, the court may further order and decree to her such portion of the personal estate of the husband not exceeding one-third part thereof in value, and such real estate of the husband not exceeding three thousand dollars in value, as it shall deem just and reasonable, having regard to the ability of the husband and the character and situation of the parties and all the other circumstances of the same : *Provided*, That if the value of her dower in his lands, were he dead, would exceed the sum of three thousand dollars, then the court may decree to her of the lands more than three thousand dollars in value, but not beyond the value of such dower. The court may also in the cases provided for in this section, decree to the wife such alimony out of the estate of the husband, as it may deem just and rea-

Court may further
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sonable, having regard to the ability of the husband and the character and situation of the parties, and all the other circumstances of the case, and may by its decree make the same a specific lien upon any specified parcel or parcels of the real estate of the husband, or authorize its enforcement by execution against his property, real and personal; but the aggregate award and allowance made to the wife from the estate of her husband, under the provisions of this section, shall not in any case exceed in present value the one-third part of the personal estate of the husband and three thousand dollars in addition, except in cases where the value of her dower in his lands, were he dead, would exceed three thousand dollars, and in such cases such award and allowance shall not exceed in present value the one-third part of the personal property of the husband and the fair value of such dower in the lands.

SEC. 2. Section twenty-four of said chapter fifty-three is hereby amended so as to read as follows :

When wife entitled to dower.

Section 24. When the marriage shall be dissolved by the husband being sentenced to imprisonment, and when a divorce shall be ordered for the cause of adultery committed by the husband, the wife shall be entitled to her dower of his lands in the same manner as if he were dead; but she shall not be entitled to dower in any other case of divorce: *Provided however*, That in case of divorce for either of the causes mentioned in this section, the wife may elect between the provisions of this section with reference to her husband's estate and the provisions of the next preceding section, but shall not be entitled to the benefit of both. Such election may be embodied in the complaint or it may be made at the time of moving for a final decree in the action, in which case it shall be made in writing and be filed with and become part of the record in the cause.

SEC. 3. Section twenty-five of said chapter fifty-three is hereby amended so as to read as follows :

In such case court may make further allowance to wife.

Section 25. In the cases mentioned in the last preceding section, if the wife shall not elect to have the benefits of the preceding twenty-third section, the court may by order allow the wife for her subsistence, as much of her said personal or real estate, or of the income thereof, as such court shall judge necessary.

SEC. 4. Section twelve of said chapter fifty-three is hereby amended so as to read as follows :

Section 12. A summons and copy of the complaint must be served upon the defendant personally, and when it shall appear to the satisfaction of the court, by the affidavit of the person making such service with the certificate of the clerk of the court of the county to the identity of the officer taking the affidavit, it shall be deemed good and valid service, whether made in or out of this State, but when in the discretion of the court the summons and complaint cannot for any cause consistently be served on the defendant personally, then the court may order service of the summons by publication as in other actions, requiring in either case that the defendant shall answer the complaint within thirty days after service of the summons.

Complaint and service—how served on defendant.

SEC. 5. All acts and parts of acts inconsistent with this act are hereby repealed.

Repeal of inconsistent acts.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved March 3, 1865.

CHAPTER XLVII.

An Act to amend an Act relating to divorces.

March 2, 1865.

- SECTION 1. Power of District Court in actions for divorce.
 2. When wife not a resident may bring an action against husband.
 3. Repeal of inconsistent acts.
 4. When act to take effect.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That an act entitled " An act regula-