

GENERAL STATUTES

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 2.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOW IN FORCE AND NOT IN
VOL. 1, THE SAME BEING THE CODE OF CIVIL PROCEDURE AND ALL REME-
DIAL LAW, THE PROBATE CODE, THE PENAL CODE AND THE CRIM-
INAL PROCEDURE, THE CONSTITUTIONS AND ORGANIC ACTS.

COMPILED AND ANNOTATED

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CHAPTER 51 (G. S. ch. 48).

ESTATES IN DOWER AND BY THE CURTESY.

Acts 1875, ch. 40, abolished dower and curtesy, and repealed this chapter of G. S., and provided in lieu of dower and curtesy that the survivor take one undivided one-third, in fee-simple, of which deceased died seized or possessed, free from any testamentary disposition to which survivor did not assent in writing, but subject to just proportion to debts as are not paid from personal estate; and also a life estate in the homestead. These provisions were modified and enlarged by acts 1876, ch. 37; 1883, ch. 58; 1887, ch. 52; 1889, ch. 46, §§ 63, 64, and incorporated in law of descent, for which see Probate Code. Acts 1875, ch. 40, also provided in section 4 that if the survivor wilfully and without just cause lived separate and apart from deceased for one year prior to decease, such survivor should not be entitled to any such estate in lieu of dower or curtesy, which provision was repealed by general repealing clause in acts 1889, ch. 40, § 322, Probate Code.

Substituting an estate by descent for the life estate known as dower and curtesy abrogates all the law governing the latter except that which determines a seizin during coverture, the present law enacting that "one equal undivided one-third of all the lands of which the deceased was at any time during coverture seized or possessed" of the fee or any inferior tenure; hence, marriage, seizin and death are as necessary now as under the old law; but the doctrines of inheritable issue and jointure or an estate in lieu of dower are abrogated. 4 Kent, Com. 38; 2 Bl. Com. 132.

SEC. 4001. Dower and curtesy abolished.— That estates in dower and estates by the curtesy, excepting those as to which the rights of persons have become fixed by the death of the husband or wife prior to the passage of this act, are hereby abolished.

Repeal — Vested rights.— Chapter forty-eight of the general statutes, and all acts or parts of acts inconsistent with this act, are hereby repealed, except that such acts are to be continued in force so far only as may be necessary to perfect estates and save all rights in cases where persons have died prior to the passage of this act; *provided*, that nothing herein contained shall be construed to give the husband any interest in the estate of the wife during her lifetime, or any control thereof, or to make the same or any part thereof liable for his debts.

1875, ch. 40, §§ 1, 5: "An act to abolish estates in dower and by the curtesy, and provide for estates of inheritance or otherwise in lieu thereof." Approved March 9, 1875. The three other sections of this act are superseded by law of descent in Probate Code. This law also abrogates acts 1867, ch. 29, providing for dower in school and agricultural college lands.

SEC. 4002. Barred by deed.— A married woman may bar her right of dower in any estate conveyed by her husband, or by his guardians, if he is a minor or an insane person, by joining in the deed of conveyance, and acknowledging the same, or by a subsequent deed, which may be executed either by joining with her husband therein, or by herself alone, to be acknowledged as in other cases; * and in cases when conveyance of real estate have been made by the husband of lands to which he had title, and the separate deed of the wife has heretofore been made to the grantee of the husband for a valuable consideration paid to her, such separate conveyance of the wife shall be as effectual to bar the dower in such premises as though she had joined in the deed executed by the husband.

G. S. ch. 48, § 13, as amended 1873, ch. 54; 1874, ch. 64; 1878, ch. 33. Above * is substantially this section before amendment. Acts 1875, ch. 40, § 5, repealed this section of G. S. and amendatory acts of 1873, ch. 54; 1874, ch. 64. Acts 1878, ch. 33, amended this section as amended by acts 1874, ch. 64, without notice of acts 1875, ch. 40. Amendment of 1873 inserted provision allowing wife to execute subsequent deed alone. Amendment of 1874 is as above, except that amendment of 1878 inserted "or an insane person," after the word "minor." It is believed that this section is repealed by acts 1875, ch. 40, § 5.