

cer. within his county, or upon application of any individual or corporation, and each of said deputies shall have the power to administer oaths to chainmen and other persons under their charge.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 7, 1881.

CHAPTER 43. *Ref 89*

AN ACT TO AMEND SECTIONS NINE (9), EIGHTEEN (18), FORTY (40) AND FIFTY-ONE (51) OF CHAPTER FIFTY-SEVEN (57), GENERAL STATUTES, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT, (1878), RELATING TO SALES OF LANDS BY EXECUTORS, ADMINISTRATORS AND GUARDIANS.

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

SECTION 1. That section nine (9) of chapter fifty-seven (57) of the General Statutes of one thousand eight hundred and seventy-eight (1878), be amended so as to read as follows:

Section 9. If the Judge of Probate is satisfied, after a full hearing upon the petition, and on examination of the proofs and allegations of the parties interested, that a sale of the whole or some portion of the real estate is necessary for the payment of valid claims against the deceased, and charges of administration, or if such sale is assented to by all persons interested, he shall thereupon make an order of sale authorizing the executor or administrator to sell the whole, or so much and such part of the real estate described in the petition as he deems necessary or beneficial; and he may, by said order, or by a supplemental order, in case an order of license has already been granted, direct the executor or administrator to sell any lot or tract of land in as many subdivisions, parts or portions as in the opinion of the Judge of Probate may be best calculated to secure purchasers and produce the most money on such sale; and if it appears to the Judge of Probate necessary or beneficial to the interests of all parties interested, he may direct and require the executor or administrator to sub-divide any tract or parcel of land into lots, and to lay off such streets or alleys, or both, as may be necessary or desirable; and upon the approval of a plat of such sub-division by the Judge of Probate, the executor or administrator shall thereupon proceed to comply with the

Judges of probate may order land sold for payment of claims.

then existing law in relation to town plats; and where [when] a plat of such sub-division is duly recorded in the office of the register of deeds of the county in which such real estate is situated, according to law, and said executor or administrator shall thereafter sell according to said plat. *Provided*, that in case the executor or administrator has been licensed to sell such real estate at private sale the Judge of Probate shall require that each and every part, tract or lot to be sold shall be appraised as required by law, and no such tract or lot shall be sold for less than its full appraised value.

SEC. 2. That section eighteen (18) of chapter fifty-seven (57) of the General Statutes of one thousand eight hundred and seventy-eight (1878), be amended so as to read as follows :

Sales subject
to mortgages,
&c.

Sec. 18. Sales and conveyances of land made by executors or administrators, pursuant to the provisions of this chapter, may be made subject to all charges thereon by mortgage or otherwise, existing at the time of the death of the testator or intestate; and in case the estate of the deceased is in any way liable for the amount secured by such mortgage, or for any such charge, the sale shall not be confirmed by the Judge of Probate until the purchaser executes a bond to the executor or administrator as required in the case of a sale of a contract for the purchase of lands on which payments are to become due, or unless the land or interest therein so sold shall be first released, discharged and made clear from such incumbrance or charge by the owner or holder thereof, upon the payment to him of the proceeds of the sale, or so much thereof as may be necessary to satisfy such incumbrance or charge; or the executor or administrator may sell the whole or any part, sub-division or portion of the interest and estate of the deceased in any lot or tract of land charged with any lien or incumbrance, and upon the release of the lot, tract or part so sold from such lien or incumbrance, apply the proceeds of such sale or sales towards the payment of such charge, lien or incumbrance until the same is fully paid; and the executor or administrator shall account for any balance remaining after such payment, as proper proceeds of the estate, and in all such cases the purchaser shall not be required to give any bond.

How proceeds
to be applied.

SEC. 3. That section forty (40) of chapter fifty-seven (57) of the General Statutes one thousand eight hundred and seventy-eight (1878), be amended by adding thereto and at the end thereof the following:

Provided, that unless the order of license to sell at private sale expressly directs that notice of sale shall be given, no such notice shall be required.

SEC. 4. That section fifty-one (51) of said chapter fifty-seven (57) be amended so as to read as follows:

Sec. 51. Sales not to be avoided, when.—In case of an action relating to any estate sold by an executor, administrator or guardian, in which an heir or person claiming under the deceased, or in which the ward or any person claiming under him, shall contest the validity of the sale, it shall not be avoided on account of any irregularity in the proceedings. *When sales not to be avoided.*
Provided it appears—

First. That the executor, administrator or guardian was licensed to make the sale, by the Probate Court having jurisdiction.

Second. That he gave a bond which was approved by the Judge of Probate, in case a bond was required upon granting a license.

Third. That he took the oath prescribed in this chapter.

Fourth. That he gave notice of the time and place of sale, as in this chapter prescribed, if such notice was required by the order of license; and

Fifth. That the premises were sold in the manner required by the order of license, and the sale confirmed by the court, and that they are held by one who purchased them in good faith.

SEC. 5. That all the provisions of this act shall apply as well to guardians' sales as to executors' or administrators' sales of real estate.

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

Approved February 23, 1881.

CHAPTER 44.

AN ACT TO AMEND SECTIONS ONE HUNDRED AND ONE (101), ONE HUNDRED AND TWO (102) AND ONE HUNDRED AND NINETEEN (119), OF TITLE SIX (6), OF CHAPTER SIXTY-SIX (66), GENERAL STATUTES OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT (1878), RELATING TO CIVIL ACTIONS.

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

SECTION 1. That section one hundred and one (101), of title six (6), chapter sixty-six (66), of the General Statutes one thousand eight hundred and seventy-eight (1878), relating to civil actions, be amended so as to read as follows: