

When lands granted to said railroad may be taxed.

placed upon the tax list by the proper officer for taxation as other real estate, for the year succeeding that in which such contract for a sale, conveyance or lease thereof shall be made, but in enforcing the collection of taxes thereon, the title or interest of said company or of any trustee or mortgagee thereof shall be in no wise impaired or affected thereby, but the improvements thereon and all the interests of the purchaser or lessee therein may and shall, in case of default of the payment of taxes upon such land, be sold to satisfy the same; and it shall be the duty of the proper officers to assess and collect such taxes in accordance with the general laws relating to the assessment and collection of taxes.

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

Approved March 2, 1865.

## CHAPTER XVI.

February 25, 1865. *An Act in relation to the powers, duties and proceedings of Executors and Trustees in certain cases.*

- SECTION 1. Sale of real estate may be private or public.
2. When copy of will may be recorded in the office of the Register of Deeds—letters testamentary, if issued, may also be recorded.
  3. Copy of will and testamentary letters may be used as evidence—when.
  4. Executors or trustees shall publish the fact of such record—time for such publication—what to contain.
  5. No objection filed, executors or trustees may proceed to execute said will.
  6. Duty of Probate Judge in case objections are filed—executors to give bond for faithful performance of duties—bond to be filed with Judge of Probate.
  7. Proceedings in case bond or security is not filed.
  8. What may be read in evidence in all the courts of this State.
  9. Notices to be served upon the Judge of Probate ten days prior to the expiration of time mentioned for the filing of objections.
  10. Duty of executors or trustees when authorized to sell property in any other county.
  11. When executors or trustees shall fail or refuse to comply with provisions of this act, how to proceed.
  12. When act to take effect.

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

SECTION 1. Sales of real estate, made by executors

or trustees, where the same is or has been given or devised to them by any last will to be sold, or (such sales) made in pursuance of an authority given by any last will, unless otherwise directed in such will, may be public or private, and on such terms as in the opinion of the executor or trustee shall be most advantageous to those interested therein.

Sale of real estate may be private or public.

SEC. 2. Where any real estate within this State, or any interest therein, is or has been given or devised by any last will legally executed, to any executor or executors, trustee or trustees therein named, to be sold by them or any of them, or where authority is or has been given by any last will to any executor or executors, trustee or trustees, to sell any real estate within this State, or any interest therein, and such will shall have been duly proved and allowed in any state, territory or district of the United States, according to the laws of such state, territory or district, a copy of such will and probate thereof authenticated under the seal of the court in which the same shall have been proved, may be recorded in the office of the register of deeds of any county within this State in which there shall be any real estate on which such will may operate. And if letters testamentary shall have been issued upon such probate, and the executor or executors named in the will shall have qualified and taken upon themselves the execution thereof, a copy of such letters similarly authenticated, with a certificate of the officer authenticating the same, that such executors have duly qualified and taken upon themselves the execution of the will, may also be recorded with the copy of such will and the probate thereof.

When will may be recorded in office of Register of Deeds—letters testamentary may also be recorded.

SEC. 3. The copy of any such will and the probate thereof and letters testamentary, authenticated as provided in the preceding section, and the certificate in said section mentioned, the record of such copy and certificate, or a copy of such record attested by the register of deeds of the county where the same shall have been recorded, may be used in evidence in all the courts of this State without further proof, and shall have the like force and effect as evidence as would the original record thereof if such probate had been made and letters issued in and by the probate court of any

When copy of will and letter may be used as evidence.

county within this State, and pursuant to the laws thereof.

Time for publication of fact of record—what to contain.

SEC. 4. The executors or trustees named in such will, shall upon the recording of such copy, will, probate and letters, and such certificate, and before any other of the acts hereinafter authorized, publish in a newspaper printed in the county in which the said copy, will, probate and letters, and the said certificate shall have been recorded, if there be one, and if there shall be no newspaper in such county, then in a newspaper printed in the city of St. Paul, at least once in each week for four successive weeks, notice of the fact of such record, and that they will proceed to the execution of such will within this State, unless objections shall be filed in the probate court of such county, at or before a day and hour to be named in such notice, which shall not be less than thirty days from the first publication thereof.

No objection filed, executors may proceed to execute will.

SEC. 5. If no such objections shall be filed at or within the time prescribed in such notice, the said judge of probate shall give to such executors or trustees a certificate of the fact, and such executors or trustees upon procuring such certificate, together with proof of the publication of the notice as prescribed in the preceding section, which may be by the affidavit of the printer or his foreman, showing the same, to be recorded in the office of the register of deeds of the county, may proceed to the execution of the said will, and shall have the same authority and power with reference to any real or personal property belonging to the estate of the testator within this State, as if the will had been duly admitted to probate, and letters testamentary had been duly issued thereon to them, in and by the probate court of any county in this State.

Duty of Judge of Probate in case objections are filed—executors to give bond for faithful performance of duty.

SEC. 6. But if objections shall be filed within the time above prescribed by any person interested in the estate of the testator, then the judge of probate of such county at the expiration of such time—the day and hour named in such notice—or at such other time as he may then appoint, shall hear such proofs as may be offered touching any such objections. And if upon such hearing it shall appear to said judge that such executor or executors are bound by sufficient surety or

sureties in the state, territory or district in which they were appointed, to the faithful and proper discharge of all their duties and obligations as such executor or executors, and if a copy of their bond or other security given, duly authenticated, shall be filed in such probate court, the said judge of probate shall give to such executor or executors a certificate that satisfactory evidence of such security has been produced to such probate court, and that a copy of such bond or other security duly authenticated has been so filed, and upon recording such certificate with the proof of notice mentioned in the preceding section in the office of the register of deeds aforesaid, the said executor or executors, trustee or trustees may proceed to the execution of such will in the same manner and to the same extent as if no objections had been filed.

Bond to be filed  
with Judge of  
Probate.

SEC. 7. But if an authenticated copy of such bond or other security shall not be filed as mentioned in the preceding section, or if it shall not at such hearing be made to appear to the judge of probate that such executor or executors are so bound as mentioned in said section, then such executor or executors before proceeding to the execution of such will, shall give bond to the judge of probate with sufficient surety or sureties to be approved by such judge, to faithfully apply the personal property (if any) belonging to the estate of the testator within this State, or the proceeds thereof, and the proceeds of such real estate within this State as they are by the will authorized to sell, to the payment of debts or legacies of the testator and the charges of administration according to the laws of the state, territory or district in which they were appointed, and to faithfully and honestly discharge their duties in all respects, as such executors, according to the best of their ability. And when such bond shall have been approved and filed by such judge of probate, he shall give to such executor or executors a certificate of the fact, and upon recording such certificate with the proof of notice mentioned in section five of this act, in the office of the register of deeds of said county, the said executor or executors, trustee or trustees may proceed to the execution of such will in the same manner as if no objection had been filed.

Proceedings in  
case bond or secur-  
ity is not filed.

May be read in evidence in all courts of this State.

SEC. 8. The original proof of notice, and the several certificates of the judge of probate, provided for in the fifth, sixth and seventh sections of this act, as also the affidavit provided for in the ninth section, the record thereof, or a copy of such record attested by the register of deeds in whose office the same shall be recorded, may be read in evidence in all the courts of this State without further proof.

Notice to be served on Judge of Probate.

SEC. 9. The notice prescribed in the fourth section of this act, shall be served upon the judge of probate of the county, by leaving a copy thereof at the office of such probate judge, or delivering to the said judge personally, a copy thereof at least ten days prior to the expiration of the time therein mentioned for the filing of objections; and an affidavit of such service made by the person serving the same, may be recorded in the office of the register of deeds in the same manner as the proof of the publication thereof.

Duty of executors when authorized to sell property in any other county.

SEC. 10. Such executor or executors, trustee or trustees, before selling any real estate by virtue of an authority contained in such will, in any county other than the county in which such copy of the will and other papers shall be first recorded, shall procure the same or similar copies and papers to be recorded in the office of the register or deeds of such other county; and when so recorded the record thereof, or a copy of such record attested by the register of deeds, may be read in evidence in the courts of this State, without further proof.

When executors refuse to comply how to proceed.

SEC. 11. Nothing in this act contained, shall be construed to prevent the probate of any will of the character in this act mentioned, in the manner heretofore provided by law for such probate, at any time before the commencement of proceedings under this act, nor after such commencement in any case where the executor or executors, trustee or trustees shall fail or refuse to comply with the provisions contained in the fourth, seventh and ninth sections of this act, relative to their duties in the premises.

SEC. 12. This act shall take effect and be in force from and after its passage.

Approved February 25, 1865.