

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

COMPILED BY
MOSES SHERBURNE and WILLIAM HOLLINSHEAD, Esqrs.,
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CHAPTER 41.

LETTERS TESTAMENTARY, AND OTHER PROCEEDINGS ON THE PROBATE OF A WILL.

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Chapter 54 Revised Statutes

(1.) SEC. I. When a will shall have been duly proved and allowed, the probate court shall issue letters testamentary thereon to the person named executor therein, if he is legally competent, and shall accept the trust and give bond as required by law.

Letters testamentary, to whom issued.

(2.) SEC. II. Every executor, before he shall enter upon the execution of his trust, and before letters testamentary shall issue, shall give bond to the judge of probate in such reasonable sum as he may direct, with one or more sufficient sureties, with conditions as follows: to make and return to the probate court within three months a true and perfect inventory of all the goods, chattels, rights, credits and estate of the deceased, which shall come to his possession or knowledge, or to the possession of any other person for him; to administer according to law and to the will of the testator, all his goods, chattels, rights, credits and estate, which shall at any time come to his possession, or to the possession of any other person for him, and out of the same to pay and discharge all debts, legacies and charges, chargeable on the same, or such dividends thereon as shall be ordered and decreed by the probate court; to render a true and just account of his administration to the probate court within one year, and at any other time when required by such court; to perform all orders and decrees of the probate court, by the executor to be performed in the premises.

Bond to be given, and conditions of same.

(3.) SEC. III. If, however, the executor shall be a residuary legatee, instead of the bond prescribed in the preceding section, he may give a bond in such sum and with such sureties as the court may direct, with a condition only to pay all the debts and legacies of the testator, and in such case he shall not be required to return an inventory.

Bond in case executor is residuary legatee.

(4.) SEC. IV. No person named as executor in any will, who shall refuse to accept the trust, or shall neglect to give bond as prescribed in this chapter, for twenty days after the probate of such will, shall intermeddle or act as executor.

Refusal to accept trust, and neglect to give bond.

(5.) SEC. V. If a person named executor in any will, shall refuse to accept the trust, or shall for the space of twenty days after the probate of the same, neglect to give bond as required by law, the probate court may grant letters testamentary to the other executors, if there be any, who are capable and willing to accept the trust; and if there be no such other executor who will give bond, the court may commit administration of the

When executor refuses to accept, &c., letters to be issued to others.

estate with the will annexed, to such person as would have been entitled to the same, if the testator had died intestate.

Administration in case of minority of executor.

(6.) SEC. VI. When the person named executor in any will, is under full age at the time of proving the will, administration shall be granted with the will annexed, during the minority of the executor, unless there shall be another executor who shall accept the trust and give bond, and in that case the executor who shall give bond shall have letters testamentary, and shall administer the estate until the minor shall arrive at full age, when he may be admitted as joint executor on giving bond according to law.

Administrator with the will annexed to give bond, &c.

(7.) SEC. VII. Every person who shall be appointed administrator with the will annexed, shall, before entering upon the execution of his trust, give bond to the judge of probate, in the same manner, and with the same condition as is required of an executor, and shall proceed in all things to execute the trust in the same manner as an executor would be required to do.

Marriage of executrix extinguishes her authority.

(8.) SEC. VIII. When an unmarried woman, appointed an executrix, alone, or jointly with another person, shall marry, her marriage shall extinguish her authority as executrix, and her husband shall not be executor in her right.

When executor may be removed.

(9.) SEC. IX. If an executor shall reside out of this territory, or shall neglect, after due notice given by the judge of probate, to render his account and settle the estate according to law, or to perform any decree of the court, or shall abscond, or become insane, or otherwise incapable or unsuitable to discharge the trust, the probate court may remove such executor.

When remaining executor to execute trust, &c.

(10.) SEC. X. When an executor shall die, or be removed, or his authority shall be extinguished, the remaining executor, if there be any, may execute the trust; and if there shall be no other executor, administration, with the will annexed, may be granted of the estate not already administered.

When all executors not authorized, those authorized may execute the will.

(11.) SEC. XI. When all the executors appointed in any will, shall not be authorized according to the provisions of this chapter, to act as such, such as are authorized shall have the same authority to perform every act, and discharge every trust, required and allowed by the will; and their acts shall be as valid and effectual for every purpose as if all were authorized, and should act together; and administrators with the will annexed shall have the same authority to perform every act, and discharge every trust, as the executor named in the will would have had, and their acts shall be as valid and effectual for any purpose.

Executor of executor not to administer.

(12.) SEC. XII. The executor of an executor shall not, as such, have any authority to administer the estate of the first testator, but on the death of the only surviving executor of any will, administration of the estate of the first testator, not already administered, may be granted, with the will annexed, to such person as the probate court may judge proper.

Separate or joint bonds may be taken.

(13.) SEC. XIII. When two or more persons shall be appointed executors of any will, the judge of probate may take a separate bond from each of them with sureties, or a joint bond from all of them with sureties.