

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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1883.

to prosecute to final judgment any suit commenced by the administrator before the revocation of his letters of administration.

§ 17. (SEC. 18.) **Acts of executor, etc., before revocation of letters, valid.** All acts of an executor or administrator, as such, before the revocation of his letters testamentary or of administration, are valid to all intents and purposes.

§ 18. (SEC. 19.) **Joint or separate bonds may be taken.** When two or more persons are appointed administrators on any estate, the judge of probate may take a joint or separate bond with sureties.

§ 19. (SEC. 20.) **When application for administration—service on consul.** When application is made to the judge of probate for the appointment of an administrator of an intestate estate, or for letters of administration with the will annexed, he shall cause notice of the same, and of the time and place of hearing thereof, to be published for three successive weeks in such newspaper as he shall direct; and when such application is made by any person, not the widow or of kin to the deceased, and the deceased was a native of any foreign country, the judge of probate shall cause such notice of the time and place of hearing such application to be served on the consul or other representative of the kingdom, state or country of which the deceased was a native, residing in the state of Minnesota, who may have filed a copy of his appointment as such consul or representative with the secretary of the state, by depositing a copy thereof in the post-office, postage paid, addressed to such consul or representative; and in case the kingdom, state or country of which deceased was a native, shall have no consul or representative in the state of Minnesota, then such notice shall be served as aforesaid on the secretary of state, and shall be by him forwarded to the representative of such kingdom, state or country at the city of Washington. (*As amended 1871, c. 56, § 1.*)

See 1881 Supp't, p. 91.

Ch. 51, * § 20, and ch. 52, § 1.

CHAPTER LII.

INVENTORY AND COLLECTION OF THE EFFECTS OF DECEASED PERSONS.

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SECTION.

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§ 1. **Executor or administrator to make inventory.** Every executor or administrator shall, within three months after his appointment, make and return into the probate court a true inventory of the real estate, and of all the goods, chattels, rights and credits of the deceased, which have come to his possession or knowledge; but an executor who is a residuary legatee, and has given bond to pay all the debts and legacies, as provided by law, shall not be required to return an inventory.

§ 2. **Appraisers to be appointed and sworn.** The estate and effects comprised in the inventory shall be appraised by two or more disinterested persons, appointed by

the judge of probate for that purpose, who shall be sworn to the faithful discharge of their trust; and if any part of such estate or effects are in any other county, appraisers thereof may be appointed in such county by said judge.

§ 3. **Appraisal, how made and certified.** The appraisers shall set down, opposite to each item in such inventory, distinctly, in figures, the value thereof in money, and deliver the same, certified by them, to the executor or administrator.

§ 4. **Inventory, etc., of property allowed widow.** A separate and distinct inventory and appraisal shall be made and returned, as aforesaid, of all the household furniture and other personal property which may be allowed to the widow, pursuant to the provisions of the preceding chapter; but the same shall not be considered assets in the hands of the executor or administrator.

§ 5. **Estate, in what order chargeable with debts.** The personal estate of the deceased which comes into the hands of the executor or administrator is first chargeable with the payment of the debts and expenses; and if the goods, chattels, rights and credits, in the hands of the executor or administrator, are not sufficient to pay the debts of the deceased, and the expenses of administration, the whole of his real estate, except the widow's dower, or so much thereof as may be necessary, may be sold for that purpose by the executor or administrator, after obtaining license therefor, in the manner provided by law.

14 M. 65.

§ 6. **Rights of executor, etc., in real estate.** The executor or administrator has a right to the possession of all the real, as well as personal estate of the deceased, and may receive the rents, issues and profits of the real estate, until the estate is settled, or until delivered over, by order of the probate court, to the heirs or devisees; and he shall keep in good tenantable repair all houses, buildings and fences thereon which are under his control.

14 M. 65; 22 M. 249.

§ 7. **Proceedings on complaint for embezzlement.** If any executor or administrator, heir, legatee, creditor or other person interested in the estate of any deceased person, complains to the judge of probate, on oath, that any person is suspected to have concealed, embezzled, carried away or disposed of any money, goods or chattels of the deceased, or that such person has in his possession or knowledge any deeds, conveyances, bonds, contracts, or other writings which contain evidence of or tend to disclose, the right, title, interest or claim of the deceased to any real or personal estate, or any claim or demand, or any last will and testament of the deceased, the said judge may cite such suspected person to appear before the court of probate, and may examine him on oath upon the matter of such complaint.

§ 8. **Persons cited, refusing to appear, etc., may be committed.** If the person so cited refuses to appear and submit to such examination, or to answer such interrogatories as may be put to him touching the matter of such complaint, the court may, by warrant for that purpose, commit him to the common jail of the county, there to remain in close custody, until he submits to the order of the court; and all such interrogatories and answers shall be in writing, signed by the party examined, and filed in the probate court.

§ 9. **Proceedings to compel accounting.** The judge of probate, upon the complaint, on oath, of any executor or administrator, may cite any person who has been intrusted by such executor or administrator with any part of the estate of the deceased person, to appear before such court; and may require such person to render a full account, on oath, of any money, goods, chattels, [bonds], accounts, or other papers belonging to such estate, which have come to his possession, in trust for such executor or administrator, and of his proceedings thereon; and if the person so cited refuses to appear and render such account, the court may proceed against him as provided in the preceding section.

§ 10. **Executor may compound with debtor, when.** When any debtor of a deceased person is unable to pay all his debts, the executor or administrator, with the ap-

probation of the judge of probate, may compound with such debtor, and give him a discharge, upon receiving a fair and just dividend of his effects.

§ 11. **Interest of mortgagee to be personal assets.** When any mortgagee of real estate or any assignee of such mortgage, dies without having foreclosed the right of redemption, all the interest in the mortgaged premises conveyed by such mortgage, and the debts secured thereby, shall be considered as personal assets in the hands of the executor or administrator; and he may foreclose the same, and have any other remedy for the collection of such debt which the deceased could have had, if living; or may continue any proceedings commenced by the deceased for that purpose.

§ 12. **Release by executor, etc., on redemption—purchase on foreclosure.** In case of the redemption of any such mortgage, or the sale of the mortgaged premises, by virtue of a power of sale contained therein or otherwise, the money paid thereon shall be received by the executor or administrator, and he shall thereupon give all necessary releases and receipts; and if, upon a sale of the mortgaged premises, the same is bid in by the executor or administrator for such debt, he shall be seized of the same, for the same persons, whether creditors, next of kin or others, who would have been entitled to the money, if the premises had been redeemed, or purchased at such sale by some other person.

§ 13. **Sale of real estate so purchased.** Any real estate so held by an executor or administrator, or which is purchased by him, as such, upon a sale on execution for the recovery of a debt due the estate, may be sold for the payment of debts or legacies, and the charges of administration, in the same manner as if the deceased had died seized thereof, upon obtaining a license therefor from the probate court, in the manner provided by law.

§ 14. **Disposition of such land, if not sold.** If any land held by an executor or administrator, as mentioned in the preceding section, is not sold by him, as therein provided, it shall be assigned and distributed to the same persons, and in the same proportions, as if it had been part of the personal estate of the deceased; and if, upon such distribution, the estate shall come to two or more persons, partition thereof may be made between them, in like manner as if it was real estate which the deceased held in his lifetime.

§ 15. **Recovery of property conveyed in fraud of creditors.** When there is a deficiency of assets in lands of an executor or administrator, and when the deceased in his lifetime, has conveyed any real estate, or any right or interest therein, with the intent to defraud his creditors, or to avoid any right, debt or duty of any person, or has so conveyed such estate that by law the deeds or conveyances are void as against creditors, the executor or administrator shall commence, and prosecute to final judgment, an action for the recovery of the same, and may recover, for the benefit of the creditors, all such real estate so fraudulently conveyed; and may also, for the benefit of such creditors, sue and recover for all goods, chattels, rights or credits which may have been so fraudulently conveyed by the deceased in his lifetime.

§ 16. **Same—application of creditors—security for costs.** No executor or administrator is bound to commence such action, unless on application of creditors of the deceased, nor unless the creditors making the application pay such part of the costs and expenses, or give such security to the executor or administrator therefor, as the probate court deems equitable.

§ 17. **Same—disposal of recovered property.** All real estate recovered, as provided in the fifteenth section of this chapter, shall be sold for the payment of debts, in the same manner as if the deceased had died seized thereof, upon obtaining a license therefor from the probate court; and the proceeds of all goods, chattels, rights and credits, recovered as aforesaid, shall be appropriated in payment of the debts of the deceased, in the same manner as other assets in the hands of the executor or administrator.