

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

COMPILED BY
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thereupon surrender his letters of administration into the probate court, and render an account of his administration, within such time as the court shall direct.

Powers of executor in such case.

(17.) SEC. XVII. The executor of the will shall, in such case, be entitled to demand, sue for and collect all the goods, chattels, rights and credits of the deceased, remaining unadministered, and may be admitted to prosecute to final judgment any suit commenced by the administrator before the revocation of his letters of administration.

Acts of executor, &c., before revocation, valid.

(18.) SEC. XVIII. All acts of an executor or administrator, as such, before the revocation of his letters testamentary or of administration, shall be as valid to all intents and purposes as if such executor or administrator had continued lawfully to execute the duties of his trust.

Administrators may give joint or separate bonds.

(19.) SEC. XIX. When two or more persons shall be appointed administrators on any estate, the judge of probate may take a separate bond from each, with sureties, or a joint bond with sureties from all.

Notice of application for appointment of administrator, &c., to be given.

(20.) SEC. XX. When application shall be 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 may direct.

CHAPTER 43.

INVENTORY AND COLLECTION OF THE EFFECTS OF DECEASED PERSONS.

Chapter 56, Revised Statutes

SECTION

1. Making and return of inventory.
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4. Appraisal how made and certified.
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SECTION

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12. Interest in mortgaged premises to be considered personal assets, &c.
13. When executor, &c., may give release. If premises bid in, for whom, &c., executor, to be seized.
14. Real estate purchased by executor, may be sold under license.
15. If such land be not sold, how assigned and distributed.
16. When suit to be prosecuted to recover lands, &c., fraudulently conveyed by deceased.
17. Executors, &c., not bound to prosecute except on application of creditors, &c.
18. Disposition of estate recovered.

Making and return of inventory.

(1.) SEC. I. 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 shall have come to his possession or knowledge; excepting, only, that an executor who shall be a residuary legatee, and shall have given bond to pay all the debts and legacies, as provided by the law, shall not be required to return an inventory.

(2.) SEC. II. 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 shall be in any other county, appraisers thereof may be appointed, either by the judge of probate having jurisdiction in the case, or by a disinterested justice of the peace of such other county.

Estate and effects to be appraised, when appraisers to be appointed in other counties.

(3.) SEC. III. When appraisers shall be appointed by a justice of the peace, he shall issue an order to them, in substance as follows:

Appointment of appraisers by justices of the peace.

Territory of Minnesota, } ss.
County of

To of in said county:

You are hereby appointed to appraise, on oath, the estate and effects of late of deceased, which may be in said county; and when you have performed that service, you are required to deliver this order, and your doings in pursuance thereof to executor, (or administrator, as the case may be,) of said deceased.

Given under my hand, this day of in the year Justice of the peace.

(4.) SEC. IV. 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, together with their appointment, if made by a justice of the peace, to the executor or administrator.

Appraisal, how made and certified.

(5.) SEC. V. A separate and distinct inventory and appraisement 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 administrators.

Separate inventory and appraisal of household furniture, &c.

(6.) SEC. VI. The personal estate of the deceased, which shall come into the hands of the executor or administrator, shall be 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, shall not be 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.

Personal estate, first chargeable with payment of debts, and if not sufficient, real estate to be sold.

(7.) SEC. VII. The executor or administrator shall have 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 shall have been settled, or until delivered over, by order of the probate court, to the heirs or devisees; and shall keep in good tenantable repair all houses, buildings, and fences thereon, which are under his control.

Executor, &c., to have right to possession of real and personal estate.

(8.) SEC. VIII. If any executor or administrator, heir, legatee, creditor, or other person interested in the estate of any deceased person, shall complain 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.

Proceeding in case of suspected embezzlement, &c.

(9.) SEC. IX. If the person so cited, shall refuse to appear, and sub-

Person cited refusing to appear

and answer, &c., may be committed.

mit 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 shall submit to the order of the court; and all such interrogatories and answers shall be in writing, and shall be signed by the party examined, and filed in the probate court.

Proceeding to compel account by persons intrusted with any part of estate.

(10.) SEC. X. The judge of probate, upon the complaint, on oath, of any executor or administrator, may cite any person who shall have 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 shall have come to his possession, in trust for such executor or administrator, and of his proceedings thereon; and if the person so cited shall refuse to appear, and render such account, the court may proceed against him as provided in the preceding section.

When executor, &c., to compound with debtor.

(11.) SEC. XI. When any debtor of a deceased person shall be unable to pay all his debts, the executor or administrator, with the approbation 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.

Interest in mortgaged premises to be considered personal assets, &c.

(12.) SEC. XII. When any mortgagee of real estate, or any assignee of such mortgage shall die 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.

When executor, &c., may give release. If premises bid in, for whom, &c., executor to be seized.

(13.) SEC. XIII. 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 shall be 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.

Real estate purchased by executor, may be sold under license.

(14.) SEC. XIV. Any real estate so held by an executor or administrator, or which may be 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.

If such land be not sold, how assigned and distributed.

(15.) SEC. XV. If any land so held by an executor or administrator, as mentioned in the preceding section, shall not be 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 were real estate which the deceased held in his lifetime.

When suit to be prosecuted to recover lands, &c., fraudulently conveyed by deceased.

(16.) SEC. XVI. When there shall be a deficiency of assets in lands of an executor or administrator, and when the deceased shall, in his lifetime, have 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 shall have so conveyed such estate that by law the deeds or conveyances are void as against creditors, the executor or administrator

may, and it shall be his duty to commence and prosecute to final judgment, any proper action or suit, at law, or in chancery, 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 the creditors, sue and recover for all goods, chattels, rights, or credits which may have been so fraudulently conveyed by the deceased in his lifetime, whatever may have been the manner of such fraudulent conveyance.

(17.) SEC. XVII. No executor or administrator shall be bound to sue for such estate, as mentioned in the preceding section, for the benefit of the creditors, unless on application of creditors of the deceased, nor unless the creditors making the application shall pay such part of the costs and expenses, or give such security to the executor or administrator therefor, as the probate court shall judge just and equitable.

Executors, &c., not bound to prosecute except on application of creditors, &c.

(18.) SEC. XVIII. All real estate so recovered, as provided in the sixteenth 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.

Disposition of estate recovered.

CHAPTER 44.

PAYMENT OF DEBTS AND LEGACIES OF DECEASED PERSONS.

Chapter 57, Revised Statutes

SECTION

1. Commissioners to examine and adjust claims when to be appointed.
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7. When commission may be renewed, and further time allowed, &c.
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18. Set-offs in suits by executors, etc.

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19. Estate of deceased liable on joint contract, etc.
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