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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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1 SECT. 17. The executor of the will in such case is enti-
 2 tled to demand, sue for and collect all the goods, chattels, C. S. p. 436, Sect. 17. c 42
 3 rights and credits of the deceased, remaining unadminis-
 4 tered, and may be admitted to prosecute to final judgment
 5 any suit commenced by the administrator before the revo-
 6 cation of his letters of administration.

1 SECT. 18. All acts of an executor or administrator, as
 2 such, before the revocation of his letters testamentary or C. S. p. 436, Sect. 18.
 3 of administration, are valid to all intents and purposes.

1 SECT. 19. When two or more persons are appointed C. S. p. 436, Sect. 19.
 2 administrators on any estate, the judge of probate may
 3 take a joint or separate bond with sureties.

1 SECT. 20. When application is made to the judge of
 2 probate for the appointment of an administrator of an intes- C. S. p. 436, Sect. 20.
 3 tate estate, or for letters of administration with the will an-
 4 nexed, he shall cause notice of the same, and of the time
 5 and place of hearing thereof, to be published for three suc-
 6 cessive weeks in such newspaper as he may direct.

CHAPTER LII.

INVENTORY AND COLLECTION OF THE EFFECTS OF DECEASED PERSONS.

1 SECTION 1. Every executor or administrator shall, with-
 2 in three months after his appointment, make and return C. S. p. 436, Sect. 1. c 43
 3 into the probate court a true inventory of the real estate,
 4 and of all the goods, chattels, rights and credits of the de-
 5 ceased, which have come to his possession or knowledge;
 6 but an executor who is a residuary legatee, and has given
 7 bond to pay all the debts and legacies, as provided by law,
 8 shall not be required to return an inventory.

1 SECT. 2. The estate and effects, comprised in the inven-
 2 tory, shall be appraised by two or more disinterested per- C. S. p. 436, Sect. 2.
 3 sons, appointed by the judge of probate for that purpose,
 4 who shall be sworn to the faithful discharge of their trust;
 5 and if any part of such estate or effects are in any other
 6 county, appraisers thereof may be appointed in such county
 7 by said judge.

1 SECT. 3. The appraisers shall set down, opposite to each C. S. p. 437, Sect. 4.
 2 item in such inventory, distinctly, in figures, the value Amended.

3 thereof in money, and deliver the same, certified by them
4 to the executor or administrator.

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C. S. p. 437, Sect. 5.

1 SECT. 4. A separate and distinct inventory and ap-
2 praisement shall be made and returned, as aforesaid, of all
3 the household, furniture and other personal property, which
4 may be allowed to the widow, pursuant to the provisions of
5 the preceding chapter; but the same shall not be considered
6 assets in the hands of the executor or administrator.

C. S. p. 437, Sect. 6.

1 SECT. 5. The personal estate of the deceased, which
2 comes into the hands of the executor or administrator, is
3 first chargeable with the payment of the debts and ex-
4 penses; and if the goods, chattels, rights and credits, in the
5 hands of the executor or administrator, are not sufficient to
6 pay the debts of the deceased, and the expenses of admin-
7 istration, the whole of his real estate, except the widow's
8 dower, or so much thereof as may be necessary, may be
9 sold for that purpose by the executor or administrator, after
10 obtaining license therefor, in the manner provided by law.

C. S. p. 437, Sect. 7.

1 SECT. 6. The executor or administrator has a right to
2 the possession of all the real, as well as personal estate of
3 the deceased, and may receive the rents, issues and profits
4 of the real estate, until the estate is settled, or until deliv-
5 ered over, by order of the probate court, to the heirs or de-
6 visees; and he shall keep in good tenantable repair all
7 houses, buildings, and fences thereon, which are under his
8 control.

C. S. p. 437, Sect. 8.

1 SECT. 7. If any executor or administrator, heir, lega-
2 tee, creditor, or other person interested in the estate of any
3 deceased person, complains to the judge of probate, on
4 oath, that any person is suspected, to have concealed, em-
5 bezzled, carried away, or disposed of any money, goods,
6 or chattels of the deceased, or that such person has in his
7 possession or knowledge, any deeds, conveyances, bonds;
8 contracts, or other writings, which contain evidence of, or
9 tend to disclose the right, title, interest, or claim of the de-
10 ceased to any real or personal estate, or any claim or de-
11 mand, or any last will and testament of the deceased, the
12 said judge may cite such suspected person to appear before
13 the court of probate, and may examine him on oath upon
14 the matter of such complaint.

C. S. p. 437, Sect. 9.

1 SECT. 8. If the person so cited, refuses to appear and
2 submit to such examination, or to answer such interrogato-
3 ries as may be put to him touching the matter of such com-
4 plaint, the court may, by warrant for that purpose, commit
5 him to the common jail of the county, there to remain in

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6 close custody, until he submits to the order of the court;
7 and all such interrogatories and answers shall be in writing
8 and signed by the party examined, and filed in the probate
9 court.

1 SECT. 9. The judge of probate, upon the complaint, on
2 oath, of any executor or administrator may cite any person
3 who has been intrusted by such executor or administrator,
4 with any part of the estate of the deceased person, to ap- c. s. p. 438, Sect. 10. c 43
5 pear before such court, and may require such person to
6 render a full account, on oath, of any money, goods, chat-
7 tels, bonds, accounts or other papers belonging to such es-
8 tate, which have come to his possession, in trust for such
9 executor or administrator, and of his proceedings thereon;
10 and if the person so cited refuses to appear and render such
11 account, the court may proceed against him as provided in
12 the preceding section.

1 SECT. 10. When any debtor of a deceased person is
2 unable to pay all his debts, the executor or administrator, c. s. p. 438, Sect. 11.
3 with the approbation of the judge of probate, may com-
4 pound with such debtor, and give him a discharge upon re-
5 ceiving a fair and just dividend of his effects.

1 SECT. 11. When any mortgagee of real estate, or any
2 assignee of such mortgage dies without having foreclosed
3 the right of redemption, all the interest in the mortgaged c. s. p. 438, Sect. 12.
4 premises conveyed by such mortgage, and the debts secured
5 thereby, shall be considered as personal assets in the hands
6 of the executor or administrator, and he may foreclose the
7 the same, and have any other remedy for the collection of
8 such debt which the deceased could have had if living; or
9 may continue any proceedings commenced by the deceased
10 for that purpose.

1 SECT. 12. In case of the redemption of any such mort-
2 gage, or the sale of the mortgaged premises, by virtue of a
3 power of sale contained therein or otherwise, the money c. s. p. 438, Sect. 13.
4 paid thereon shall be received by the executor or adminis-
5 trator, and he shall thereupon give all necessary releases
6 and receipts; and if upon a sale of the mortgaged premises,
7 the same is bid in by the executor or administrator for such
8 debt, he shall be seized of the same, for the same persons,
9 whether creditors, next of kin or others, who would have
10 been entitled to the money, if the premises had been re-
11 deemed or purchased at such sale by some other person.

1 SECT. 13. Any real estate so held by an executor or ad- c. s. p. 438, Sect. 14.
2 ministrator, or which is purchased by him as such, upon a
3 sale on execution for the recovery of a debt due the estate,

4 may be sold for the payment of debts or legacies, and the
5 charges of administration, in the same manner as if the de-
6 ceased had died seized thereof, upon obtaining a license
7 therefor from the probate court in the manner provided by
8 law.

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C.S. p. 438, Sect. 15.

1 SECT. 14. If any land held by an executor or administra-
2 tor, as mentioned in the preceding section, is not sold by
3 him, as therein provided, it shall be assigned and distribut-
4 ed to the same persons and in the same proportions as if it
5 had been part of the personal estate of the deceased; and if
6 upon such distribution, the estate shall come to two or more
7 persons, partition thereof may be made between them, in
8 like manner as if it was real estate which the deceased held
9 in his life time.

C.S. p. 438, Sect. 16.
Amended.

1 SECT. 15. When there is a deficiency of assets in lands
2 of an executor or administrator, and when the deceased
3 in his life time, has conveyed any real estate, or any right
4 or interest therein, with the intent to defraud his creditors,
5 or to avoid any right, debt, or duty of any person, or has
6 so conveyed such estate that by law the deeds or convey-
7 ances are void as against creditors, the executor or adminis-
8 trator shall commence and prosecute to final judgment, an
9 action for the recovery of the same, and may recover for the
10 benefit of the creditors, all such real estate so fraudulently
11 conveyed; and may also, for the benefit of such creditors,
12 sue and recover for all goods, chattels, rights, or credits
13 which may have been so fraudulently conveyed by the de-
14 ceased in his life time.

C.S. p. 439, Sect. 17.
Amended.

1 SECT. 16. No executor or administrator is bound to com-
2 mence such action, unless on application of creditors of the
3 deceased, nor unless the creditors making the application
4 pay such part of the costs and expenses, or give such se-
5 curity to the executor or administrator therefor, as the pro-
6 bate court deems just and equitable.

C.S. p. 439, Sect. 18.

1 SECT. 17. All real estate recovered, as provided in the
2 sixteenth section of this chapter, shall be sold for the pay-
3 ment of debts, in the same manner as if the deceased had
4 died seized thereof, upon obtaining a license therefor, from
5 the probate court, and the proceeds of all goods, chattels,
6 rights, and credits, recovered as aforesaid, shall be appro-
7 priated in payment of the debts of the deceased, in the same
8 manner as other assets in the hands of the executor or ad-
9 ministrator.