

CHANGES

—IN THE—

General Statutes of 1878,

EFFECTED BY THE

GENERAL LAWS OF 1879 AND 1881,

Arranged with reference to the Chapter and Section Amended.

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CHAPTER LI.

ADMINISTRATION AND DISTRIBUTION OF THE ESTATE OF INTESTATES.

*§ 20. **Party wall—where estate is that of decedent or minor.** That in all cases where it is desired to erect a party wall between two tracts of land, one or both of which belongs to an undistributed estate of a deceased person or to minors, or whenever a minor or minors are interested in such lands, it shall be lawful for the probate court of the county having jurisdiction of such estate, upon the same notice and hearing as is now provided by law in the case of the sale of real estate of minors, to license the executors or administrators of such estate, or the guardian or guardians of such minors, to enter into a contract relating to the erection, maintaining, or rebuilding of such party wall, and the ground whereon the same is to be placed; and such contract or agreement may be executed and acknowledged by such executors or administrators, guardian or guardians, and shall bind such estates, and shall be of the same force and effect as though between other owners of real estate capable of contracting: *provided*, the same is approved by the judge of probate of the county wherein such land is situated and recorded in the office of the register of deeds for such county. (1881, c. 118, § 1.)

See page 582.

CHAPTER LII.

INVENTORY AND COLLECTION OF THE EFFECTS OF DECEASED PERSONS.

§ 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: *provided*, that if no inventory shall be filed the executor or administrator shall pay into the county treasury of the county where administration is had, to re-imburse said county, the highest rate specified for such purpose in section eight of chapter seven, General Statutes 1878. (*As amended* 1881, c. 67, § 1.)

See page 582.

CHAPTER LIII.

PAYMENT OF DEBTS AND LEGACIES.

(*The duties of commissioners are conferred upon the judge of probate by Laws 1879, c. 69, § 1.)

See page 585.

CHAPTER LVII.

SALE OF LANDS BY EXECUTORS, ADMINISTRATORS, AND GUARDIANS.

*§ 9. **Judge shall make order of sale. when.** If the judge of probate is satisfied, after a full hearing upon the petition, and an examination of the proofs and allegations of the parties interested, that a sale of the whole or some portion of the real estate is necessary for the payment of valid claims against the deceased and charges of administration, or if such sale is assented to by all persons interested, he shall there-

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upon make an order of sale authorizing the executor or administrator to sell the whole, or so much and such part of the real estate described in the petition as he deems necessary or beneficial; and he may, by said order, or by a supplemental order in case an order of license has already been granted, direct the executor or administrator to sell any lot or tract of land in as many subdivisions, parts, or portions, as in the opinion of the judge of probate may be best calculated to secure purchasers and produce the most money on such sale; and if it appears to the judge of probate necessary or beneficial to the interests of all parties interested, he may direct and require the executor or administrator to subdivide any tract or parcel of land into lots, and to lay off such streets or alleys, or both, as may be necessary or desirable; and upon the approval of a plat of such subdivision by the judge of probate, the executor or administrator shall thereupon proceed to comply with the then-existing law in relation to town plats; and where [when] a plat of such subdivision is duly recorded in the office of the register of deeds of the county in which such real estate is situated, according to law, and said executor or administrator shall thereafter sell according to said plat: *provided*, that in case the executor or administrator has been licensed to sell such real estate at private sale, the judge of probate shall require that each and every part, tract, or lot to be sold shall be appraised as required by law, and no such tract or lot shall be sold for less than its full appraised value. (As amended 1881, c. 43, § 1.)

See page 601.

§ 18. **Sales and conveyances subject to charges, etc.** Sales and conveyances of land made by executors and administrators, pursuant to the provisions of this chapter, may be made subject to all charges thereon, by mortgage or otherwise, existing at the time of the death of the testator or intestate; and in case the estate of the deceased is in any way liable for the amount secured by such mortgage, or for any such charge, the sale shall not be confirmed by the judge of probate until the purchaser executes a bond to the executor or administrator, as required in the case of a sale of a contract for the purchase of lands on which payments are to become due, or unless the land or interest therein so sold shall be first released, discharged, and made clear from such incumbrance or charge by the owner or holder thereof, upon the payment to him of the proceeds of the sale, or so much thereof as may be necessary to satisfy such incumbrance or charge; or the executor or administrator may sell the whole or any part, subdivision, or portion of the interest and estate of the deceased in any lot or tract of land charged with any lien or incumbrance, and upon the release of the lot, tract, or part so sold from such lien or incumbrance, apply the proceeds of such sale or sales towards the payment of such charge, lien, or incumbrance, until the same is fully paid; and the executor or administrator shall account for any balance remaining after such payment as proper proceeds of the estate, and in all such cases the purchaser shall not be required to give any bond. (As amended 1881, c. 43, § 2.)

See page 602.

§ 38. (SEC. 34.) **Order—sale to be made, within what time.** After an order of sale is made, and said bond filed with the judge of probate, he shall deliver a certified copy of said order to the executor, administrator, or guardian, who shall thereupon be authorized to sell the real estate, as therein described, within one year after the making of such order, or within such further time, not exceeding two years, as may be allowed by said judge of probate, by an order entered of record, and indorsed upon such certified copy of the original order to that effect, dated and signed by him. (As amended 1879, c. 13, § 1.)

See pages 605–6.

Add to § 40, page 606:

Provided, that unless the order of license to sell at private sale expressly directs that notice of sale shall be given, no such notice shall be required. (As amended 1881, c. 43, § 3.)

See page 606.

§ 42. (SEC. 38.) **Length of credit to be given—security.** On such sale the executor, administrator or guardian may give such length of credit, not exceeding three years, and for not more than two-thirds of the purchase-money, as shall seem best calculated to produce the highest price, and shall have been directed, or approved, by the judge of probate; and shall secure the money for which credit is given, with interest, by a bond or note of the purchaser, and a mortgage of the premises sold. (*As amended* 1879, c. 20, § 1.)

See page 606.

§ 51. (SEC. 4.) **Sales not to be avoided, when.** In case of an action relating to any estate sold by an executor, administrator, or guardian, in which an heir or person claiming under the deceased, or in which the ward, or any person claiming under him, shall contest the validity of the sale, it shall not be avoided on account of any irregularity in the proceedings: *provided*, it appears—

First. That the executor, administrator, or guardian was licensed to make the sale by the probate court having jurisdiction.

Second. That he gave a bond, which was approved by the judge of probate, in case a bond was required upon granting a license.

Third. That he took the oath prescribed in this chapter.

Fourth. That he gave notice of the time and place of sale, as in this chapter prescribed, if such notice was required by the order of license; and,

Fifth. That the premises were sold in the manner required by the order of license, and the sale confirmed by the court, and that they are held by one who purchased them in good faith. (*As amended* 1881, c. 43, § 4.)

*§ 51a. **Provisions also applicable to guardians' sales.** That all the provisions of this act shall apply as well to guardians' sales as to executors' or administrators' sales of real estate. (1881, c. 43, § 5.)

See pages 607-8.

CHAPTER LXII.

DIVORCE.

Add to § 26, p. 629:

Or the court, whenever it shall find the fact to be that the husband has an income from any source sufficient to enable him to pay such alimony or other allowance, and fails and refuses to pay the same, may order or direct the husband to pay such alimony or allowance for the use of the wife or the children or both. And if any person or party shall disobey such order or direction, such person or party may be punished by the court as for contempt. The proceedings therefor are prescribed in chapter eighty-seven of the General Statutes, 1878, respecting the punishment of contempt. (*As amended* 1881, c. 78, § 1.)

CHAPTER LXIII.

SUPREME COURT.

*§ 1a. **Number of judges.** The supreme court shall consist of one chief justice and four associate justices. (1881, c. 141, § 1.)

See page 631.