

Statutes  
1878

THE  
GENERAL STATUTES  
OF THE  
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY  
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FOURTH EDITION.

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

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if the report is confirmed a conveyance shall be executed, under the direction of the court.

§ 71. (SEC. 58.) **Effect of such sale, etc.** All sales, leases, dispositions and conveyances, made in good faith by such guardian or husband, in pursuance of such orders, shall be valid and effectual as if made by such lunatic when of sound mind.

§ 72. (SEC. 59.) **Order concerning proceeds of sale—report of investment, etc.** The court shall make order for the application and disposition of the proceeds of such property, and for the investment of the surplus belonging to such lunatic, so as to secure the same for the benefit of such lunatic; and shall direct the ascertainment of the value of such tenancy by the curtesy, or tenancy initiate, or dower, or right of dower, or inchoate right of dower; and shall direct a return of such investment and disposition to be made on oath, as soon as may be; and shall require accounts to be rendered periodically by any committee or other person who may be intrusted with the disposition of the income of such proceeds.

§ 73. (SEC. 60.) **Interest of lunatic in proceeds.** No sale made, as aforesaid, of the real estate or interest therein of any lunatic, shall give to such lunatic any other or greater interest or estate in the proceeds of such sale than such lunatic had in the estate so sold; but the said proceeds shall be deemed real estate of the same nature as the property sold, or the interest therein of the said lunatic, and the court shall make order for the preservation of the same.

§ 74. (SEC. 61.) **Compensation in lieu of dower.** If the real estate of any lunatic, or any part of it, is subject to dower or other life estate, and the person entitled thereto consents, in writing, to accept a gross sum in lieu of such dower or other life estate, or the permanent investment of a reasonable sum, in such manner as that the interest thereof be made payable to the person entitled to such dower or life estate during life, the court may direct the payment of such sum in gross, or the investment of such sum, as shall be deemed reasonable and be acceptable to the person entitled to said dower or other life estate, or right therein, actual or contingent, in manner aforesaid.

§ 75. (SEC. 62.) **Dower to be released.** Before any such sum is paid, or investment made, the court shall be satisfied that an actual release of such right of dower or other life estate, actual or contingent, has been executed.

## CHAPTER LVIII.

### CONVEYANCE OF REAL ESTATE BY EXECUTORS AND ADMINISTRATORS IN CERTAIN CASES.

#### SECTION.

1. Probate court may decree conveyance, when.
2. Petition—notice of hearing.
3. Proceedings on hearing.
4. Decree for conveyance—dismissal of petition.
5. Appeals—decree to be recorded,

#### SECTION.

6. Effect of decree and conveyance.
7. Effect of record of copy of decree in registry of deeds.
8. Heirs, etc., of purchasers may prosecute proceedings.

§ 1. **Court may decree conveyance of lands, when.** When any person who is bound by a contract in writing to convey any real estate, dies before making the conveyance, the probate court may make a decree, authorizing and directing the executor or administrator to convey such real estate to the person entitled thereto,

in all cases where such deceased person, if living, might be compelled to execute such conveyance.

§ 2. **Petition—notice of hearing.** On the presentation of a petition by any person claiming to be interested in causing such conveyance from any executor or administrator to be made, setting forth the names, ages and residences, if known, of all persons interested in the estate to be conveyed, and the facts upon which such claim is predicated, the judge of probate shall appoint a time and place for hearing such petition; and notice thereof shall be given to those interested, in the same manner provided for in sections three and four of chapter fifty-seven of the General Statutes. (*As amended 1875, c. 57, § 1.*)

§ 3. **Proceedings on hearing.** At such hearing, or any adjournment thereof, upon proof by affidavit of the due publication of the notice, all persons interested in the estate may appear before the probate court and defend against such petition; and the court may examine on oath the petitioner, and all others produced before it for that purpose.

§ 4. **Decree for conveyance—dismissal of petition.** After a full hearing upon such petition, and examination of the facts and circumstances of such claim, if the judge of probate is satisfied that a conveyance of the real estate described in the petition should be made, according to the provisions of this chapter, he shall thereupon make a decree, authorizing and directing the executor or administrator to make and execute a conveyance thereof, to the person or persons entitled thereto; otherwise he shall dismiss such petition. (*As amended 1875, c. 57, § 2.*)

§ 5. **Appeals—decree to be recorded.** Any person interested may appeal from such decree or dismissal to the district court for the same county, as in other cases; but if no appeal is taken from such decree within the time limited therefor by law, or if such decree is affirmed on appeal, the executor or administrator shall execute the conveyance, according to the direction contained in such decree; and a certified copy of the decree shall be recorded, with the deed, in the office of the register of deeds in the county where the lands lie, and shall be evidence of the correctness of the proceedings, and of the authority of the executor or administrator to make the conveyance.

§ 6. **Effect of decree and conveyance.** Every conveyance made in pursuance of a decree of the probate court, as provided in this chapter, shall be effectual to pass the estate contracted for, as fully as if the contracting party himself was still living, and executed the conveyance.

§ 7. **Effect of recording copy of decree in registry of deeds.** A copy of the decree for conveyance, made by the probate court, and duly certified, and recorded in the registry of deeds in the county where the lands lie, shall give the person entitled to such conveyance a right to the possession of the lands contracted for, and to hold the same, according to the terms of the intended conveyance, in like manner as if they had been conveyed in pursuance of the decree; and such right may be enforced, if necessary, by said court, according to the course of practice therein.

§ 8. **Heirs, etc., of purchaser may prosecute proceeding.** If the person to whom the conveyance was to be made dies before the commencement of proceedings according to the provisions of this chapter, or before the conveyance is completed, any person who would have been entitled to the estate under him, as heir, devisee or otherwise, in case the conveyance had been made according to the terms of the contract, or the executor or administrator of such deceased person, for the benefit of the person so entitled, may commence such proceedings, or prosecute the same, if already commenced; and the conveyance shall thereupon be so made as to vest the estate in the same persons who would have been so entitled to it, or in the executor or administrator for their benefit.