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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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6 *Second.*—An order appointing an administrator, execu-
7 tor, or guardian, or removing him, or refusing to make
8 such appointment or removal.

9 *Third.*—An order directing real property to be sold,
10 mortgaged or leased, or confirming the same.

11 *Fourth.*—An order or judgment by which a debt, claim,
12 legacy, or distributive share is allowed, or payment thereof
13 directed, or such allowance or direction refused, when the
14 amount in controversy exceeds fifteen dollars.

15 *Fifth.*—Judgment upon an accounting by an executor,
16 administrator or guardian, including an intermediate order
17 involving the merits and necessarily affecting the judgment.

c 38
C. S. p. 494, Sect. 44.

1 SECT. 15. The appeal can only be taken by a party ag-
2 grieved, who appeared and moved for, or opposed the or-
3 der or judgment appealed from, or who being entitled to
4 being heard thereon, had not due notice or opportunity to
5 be heard, the latter fact to be shown by affidavit and filed
6 and served with the notice.

C. S. p. 494, Sects. 45
& 46, combined.

1 SECT. 16. The appeal may be taken upon questions of
2 fact or law, or both, by the service of a notice on the ad-
3 verse party, stating the appeal from the order or judgment,
4 or some specified part thereof, and by filing a copy of the
5 said notice in the office of the judge of probate, together
6 with a recognizance entered into by the party appealing,
7 with one or more sureties, to be approved by the judge
8 of probate, conditioned that the party will prosecute his
9 appeal with due diligence to a final determination, and pay
10 all costs adjudged against him in the district court; which
11 appeal shall be taken within sixty days after notice of the
12 order or judgment appealed from.

CHAPTER L.

LETTERS TESTAMENTARY, AND OTHER PROCEED- INGS ON THE PROBATE OF A WILL.

c 41
C. S. p. 431, Sect. 1.

1 SECTION 1. When a will is duly proved and allowed,
2 the probate court shall issue letters testamentary thereon
3 to the executor named therein, if he is legally competent,
4 and accepts the trust and gives bond as required by law.

1 SECT. 2. Every executor, before entering upon the ex-
2 ecution of his trust, and before letters testamentary are is-
3 sued, shall give bond to the judge of probate in such rea-

4 sonable sum as he may direct, with one or more sufficient
 5 sureties, with conditions as follows: to make and return to
 6 the probate court within three months, a true and perfect in- C. S. p. 431, Sect. 2.
 7 ventory of all the goods, chattels, rights, credits and estate
 8 of the deceased, which shall come to his possession or
 9 knowledge, or to the possession of any other person for him;
 10 to administer according to law and the will of the testator,
 11 all his goods, chattels, rights, credits and estate, which
 12 shall at any time come to his possession, or to the posses-
 13 sion of any other person for him, and out of the same pay
 14 and discharge all debts, legacies and charges, chargeable on
 15 the same, or such dividends thereon as are ordered and de-
 16 creed by the probate court; to render a true and just ac-
 17 count of his administration to the probate court within one
 18 year, and at any other time when required by such court;
 19 to perform all orders and decrees of the probate court; by
 20 the executor to be performed in the premises.

1 SECT. 3. If, however, the executor is a residuary lega- C. S. p. 431, Sect. 3.
 2 tee, instead of the bond prescribed in the preceding section,
 3 he may give a bond in such sum and with such sureties as
 4 the court may direct, with condition only to pay all the debts
 5 and legacies of the testator, and in such case he shall not be
 6 required to return an inventory.

1 SECT. 4. No person named as executor in a will, who
 2 neglects to accept the trust, or give bond as prescribed in C. S. p. 431, Sect. 4.
 3 this chapter, for twenty days after the probate of such will,
 4 shall intermeddle or act as executor.

1 SECT. 5. If a person named executor in any will refu- C. S. p. 431, Sect. 5.
 2 ses to accept the trust, or neglects for twenty days after the
 3 probate of the same, to give bond as required by law, the
 4 probate court may grant letters testamentary to the other
 5 executors, if there are any capable and willing to accept the
 6 trust; and if there are none such, the court may commit
 7 administration of the estate with the will annexed, to such
 8 person as would have been entitled thereto if the deceased
 9 had died intestate.

1 SECT. 6. When the person named executor in a will is
 2 under full age at the time of proving the will, administration
 3 shall be granted with the will annexed, during the minority C. S. p. 432, Sect. 6.
 4 of the executor to the person would have been entitled Amended.
 5 thereto if the deceased had died intestate, unless there is
 6 another executor who accepts the trust and gives bond, and
 7 in that case the executor who gives bond shall have letters
 8 testamentary, and shall administer the estate until the mi-
 9 nor arrives at full age, when he may be admitted as joint
 10 executor on giving bond according to law.

c41
C. S. p. 432, Sect. 7.

1 SECT. 7. Every person appointed administrator with
2 the will annexed, shall, before entering upon the execution
3 of his trust, give bond to the judge of probate, in the same
4 manner, and with the same condition as is required of an
5 executor, and shall proceed in all things to execute the trust
6 in like manner as an executor is required to do.

C. S. p. 432, Sect. 8.
Amended.

1 SECT. 8. When an unmarried woman, appointed an ex-
2 ecutrix, alone, or jointly with another person, marries, her
3 marriage shall extinguish her authority as executrix.

C. S. p. 432, Sect. 9.

1 SECT. 9. When an executor resides out of this state, or
2 neglects, after due notice given by the judge of probate, to
3 render his account and settle the estate according to law,
4 or perform any decree of the court, or absconds, or becomes
5 insane, or otherwise incapable or suitable to discharge the
6 trust, the probate court may remove such executor.

C. S. p. 432, Sect. 10.

1 SECT. 10. When an executor dies, or is removed, or his
2 authority is extinguished, the remaining executor, if there
3 is any, may execute the trust; and if there is no other exe-
4 cutor, administration, with the will annexed, may be grant-
5 ed of the estate not already administered.

C. S. p. 432, Sect. 11.

1 SECT. 11. When all the executors appointed in a will
2 are not authorized according to the provisions of this chap-
3 ter, to act as such, such as are authorized shall have the
4 same authority to perform every act, and discharge every
5 trust, required and allowed by the will; and their acts shall
6 be as valid and effectual for every purpose as if all were
7 authorized and acted together; and administrators with the
8 will annexed, shall have the same authority to perform eve-
9 ry act, and discharge every trust, as the executor named in
10 the will would have had, and their acts shall be as valid and
11 effectual for every purpose.

C. S. p. 432, Sect. 12.

1 SECT. 12. The executor of an executor shall not, as such,
2 administer the estate of the first testator, but on the death
3 of the only surviving executor, administration of the estate
4 of the first testator, not already administered, may be grant-
5 ed, with the will annexed, to such person as the probate
6 court may judge proper.

C. S. p. 432, Sect. 13.

1 SECT. 13. When two or more persons are appointed
2 executors of any will, the judge of probate may take a separate
3 bond from each, or a joint bond from all, with sureties.