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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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## CHAPTER LI.

ADMINISTRATION AND DISTRIBUTION OF THE  
ESTATES OF INTESTATES.

1 SECTION 1. When any person dies, possessed of any  
2 personal estate, or of any right or interest therein, not law-  
3 fully disposed of by his last will, the same shall be applied  
4 and distributed as follows :

5 *First.*—The widow, if any, shall be allowed all her arti-  
6 cles of apparel and ornament, and all the wearing apparel  
7 of the deceased, his household furniture, not exceeding in  
8 value two hundred and fifty dollars, and other personal  
9 property to be selected by her, not exceeding in value two  
10 hundred dollars ; and this allowance shall be made as well  
11 when the widow receives the provisions made for her in the  
12 will of her husband, as when he dies intestate.

C. S. p. 433, Sect. 1.  
Amended.

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13 *Second.*—The widow and children constituting the fami-  
14 ily of the deceased, shall have such reasonable allowance out  
15 of the personal estate, as the probate court deems necessary  
16 for their maintenance during the progress of the settlement  
17 of the estate, according to their circumstances ; which, in  
18 case of an insolvent estate shall not be longer than one year af-  
19 ter granting administration, nor for any time after the dower  
20 and personal estate is assigned to the widow.

21 *Third.*—When a person dies, leaving children under  
22 seven years of age, having no mother, or when the mother  
23 dies before the children arrive at the age of seven years,  
24 an allowance shall be made for the necessary mainten-  
25 ance of such children, until they arrive at the age of seven  
26 years, out of such part of the personal estate, and the in-  
27 come of such part of the real estate as would have been as-  
28 signed to their mother, if she had been living.

29 *Fourth.*—If, on the return of the inventory of any intes-  
30 tate estate, it appears that the value of the whole estate  
31 does not exceed the sum of one hundred and fifty dollars,  
32 the probate court may, by a decree for that purpose, assign  
33 for the use and support of the widow and children of such  
34 intestate, or for the support of the children under seven  
35 years of age, if there is no widow, the whole of such estate,  
36 after the payment of the funeral charges, and expenses of  
37 administration.

38 *Fifth.*—If the personal estate amounts to more than one  
39 hundred and fifty dollars, and more than the allowances men-  
40 tioned in the preceding sub-divisions of this section, the

41 same shall be applied to the payment of the debts of the  
42 deceased, with the charges of his funeral, and settling of his  
43 estate.

44 *Sixth.*—The residue, if any, of the personal estate, shall  
45 be distributed in the same proportion, and to the same per-  
46 sons, and for the same purposes as prescribed for the descent  
47 and disposition of the real estate, except that the widow, if  
48 any, shall be entitled to receive the same share of such res-  
49 idue, as a child of such intestate would be entitled to.

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C. S. P. 434, Sect. 2.

1 SECT. 2. When any person dies intestate, being an in-  
2 habitant of this state, letters of administration of his estate  
3 shall be granted by the probate court of the county of which  
4 he was an inhabitant or resident at the time of his death.  
5 If such deceased person, at the time of death resides in any  
6 other territory, state or country, leaving estate to be ad-  
7 ministered in this state, administration thereof shall be  
8 granted by the probate court of any county in which there  
9 is estate to be administered; and the administration first le-  
10 gally granted, shall extend to all the estate of the deceased  
11 in this state, and exclude the jurisdiction of the probate  
12 court of every other county.

C. S. P. 434, Sect. 3.

1 SECT. 3. Administration of the estate of a person dying  
2 intestate, shall be granted to one or more of the persons  
3 hereinafter mentioned, and they shall be respectively enti-  
4 tled to the same in the following order:

5 *First.*—The widow, or next of kin, or both, as the judge of  
6 probate may think proper, or such person as the widow or  
7 next of kin may request to have appointed, if suitable and  
8 competent to discharge the trust.

9 *Second.*—If the widow, or next of kin, or the person se-  
10 lected by them is unsuitable or incompetent, or if the widow  
11 or next of kin neglects for thirty days after the death of the  
12 intestate to apply for administration, or to request that ad-  
13 ministration be granted to some other person, the same  
14 may be granted to one or more of the principal creditors,  
15 if any such are competent and willing to take it.

16 *Third.*—If there is no such creditor competent and willing  
17 to take administration, the same may be committed to such  
18 other person as the judge of probate may think proper.

C. S. P. 434, Sect. 4.

1 SECT. 4. Every administrator, before he enters upon the  
2 execution of his trust, and before letters of administration  
3 are granted to him, shall give a bond to the judge of pro-  
4 bate, with such sureties as he shall direct and approve, with  
5 the same conditions as required in case of an executor, with  
6 such variations only as are necessary to make it applicable  
7 to the case of an administrator.

1 SECT. 5. When there is a delay in granting letters tes- C. S. p. 434, Sect. 5. c 42  
 2 tamentary or of administration, occasioned by an appeal  
 3 from the allowance or disallowance of a will, or from any  
 4 other cause, the judge of probate may appoint an adminis-  
 5 trator to act in collecting and taking charge of the estate of  
 6 the deceased, until the question on the allowance of the  
 7 will, or such other question as occasions the delay, is termin-  
 8 ated, and an executor or administrator is thereupon appoint-  
 9 ed; and no appeal shall be allowed from the appointment  
 10 of such special administrator.

1 SECT. 6. An administrator, appointed according to the C. S. p. 434, Sect. 6.  
 2 provisions of the preceding section, shall collect all the  
 3 goods, chattels, and debts of the deceased, and preserve the  
 4 same for the executor or administrator who may afterwards  
 5 be appointed, and for that purpose may commence and  
 6 maintain actions as an administrator, and sell such perish-  
 7 able and other personal estate as the probate court may order  
 8 to be sold.

1 SECT. 7. Such special administrator shall not be liable C. S. p. 434, Sect. 7.  
 2 to an action by any creditor, or to be called upon in any  
 3 other way to pay the debts against the deceased.

1 SECT. 8. Every such special administrator shall, before C. S. p. 435, Sect. 8.  
 2 entering upon the duties of his trust, give a bond to the  
 3 judge of probate in such sum as he shall direct, with a con-  
 4 dition that he will make and return a true inventory of all  
 5 the goods, chattels, rights, credits and effects of the deceas-  
 6 ed, which come to his possession or knowledge; and that  
 7 he will truly account for all the goods, chattels, debts and  
 8 effects of the deceased, which shall be received by him  
 9 whenever required by the probate court, and shall deliver  
 10 the same to the person who shall afterwards be appointed  
 11 executor or administrator of the deceased, or to such other  
 11 person as shall be legally authorized to receive the same.

1 SECT. 9. Upon granting letters testamentary or of ad- C. S. p. 435, Sect. 9.  
 2 ministration on the estate of the deceased, the power of such  
 3 special administrator shall cease, and he shall forthwith de-  
 4 liver to the executor or administrator, all the goods, chattels,  
 5 money and effects of the deceased in his hands; and the  
 6 executor or administrator may be admitted to prosecute to  
 7 final judgment any action commenced by such special ad-  
 8 ministrator.

1 SECT. 10. If any person, before the granting of letters C. S. p. 435, Sect. 10.  
 2 testamentary or of administration, embezzles or alienates  
 3 any of the moneys, goods, chattels or effects of any deceased  
 4 person, such person shall stand chargeable and be liable to

5 the action of the executor or administrator of such estate for  
6 double the value of the property so embezzled or alienated,  
7 to be recovered for the benefit of such estate.

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C. S. p. 435, Sect. 11.

1 SECT. 11. When any sole executor or administrator  
2 dies without having fully administered the estate, the pro-  
3 bate court may grant letters of administration with the will  
4 annexed, or otherwise, as the case may require, to some  
5 suitable person to administer the goods and estate of the  
6 deceased, not already administered.

C. S. p. 435, Sect. 12.

1 SECT. 12. If an administrator resides out of this state, or  
2 neglects after due notice by the judge of probate to render  
3 his account, and to settle the estate according to law, or to  
4 perform any decree of such court, or absconds or becomes  
5 insane, or otherwise unsuitable or incapable of discharging  
6 the trust, the probate court may remove such adminis-  
7 trator.

C. S. p. 435, Sect. 13.

1 SECT. 13. When an unmarried woman who is adminis-  
2 tratrix alone or jointly with another person, marries, her  
3 marriage extinguishes her authority as administratrix.

C. S. p. 435, Sect. 14.

1 SECT. 14. When an administrator is removed, or his  
2 authority extinguished, the remaining administrator, if any,  
3 may execute the trust; if there is no other, the court of  
4 probate may commit administration of the estate, not al-  
5 ready administered, to some suitable person, as in case of  
6 the death of a sole administrator.

C. S. p. 435, Sect. 15.

1 SECT. 15. An administrator appointed in the place of  
2 any former executor or administrator for the purpose of ad-  
3 ministering the estate not already administered, has the  
4 same powers, and shall proceed in settling the estate, in the  
5 same manner as the former executor or administrator had  
6 or should have done; and may prosecute or defend any ac-  
7 tion commenced by or against the former executor or ad-  
8 ministrator, and have execution on any judgment recovered  
9 in the name of such former executor or administrator.

C. S. p. 435, Sect. 16.

1 SECT. 16. If after the granting of letters of administra-  
2 tion by any probate court, on the estate of any deceased  
3 person, as if he had died intestate, a will of such deceased  
4 person is duly proved and allowed by such court, the first  
5 administration shall, by decree of said court, be revoked,  
6 and the powers of the administrator cease, and he shall  
7 thereupon surrender his letters of administration into the  
8 probate court, and render an account of his administration,  
9 within such time as the court shall direct.

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  
 3 into the probate court a true inventory of the real estate, C. S. p. 436, Sect. 1. c 43  
 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.