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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.

ONE HUNDRED COPIES ORDERED PRINTED.



SAINT PAUL:

FREDERICK DRISCOLL, STATE PRINTER.

(PRESS PRINTING COMPANY.)

1865.

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C. S. p. 447, Sect. 59.

3 tingent or other lawful claim against a deceased person,
4 shall thereby be prevented from prosecuting the same
5 against the executor, administrator, heirs, devisees, or leg-
6 atees, as provided by law, and in such case a claimant hav-
7 ing a lien upon real or personal estate of the deceased, by
8 attachment previous to his death, may on obtaining judg-
9 ment have execution against such real or personal estate.

C. S. p. 447, Sect. 60.

1 SECT. 50. In no other case, except such as are express-
2 ly provided for in this chapter, shall any action be com-
3 menced or prosecuted against an executor or administrator;
4 nor shall any writ of attachment or execution issue against
5 such executor or administrator, or against the estate of the
6 deceased in his hands, during the time allowed him for the
7 payment of debts.

CHAPTER LIV.

RENDERING ACCOUNTS BY EXECUTORS AND AD-
MINISTRATORS.

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C. S. p. 448, Sect. 1.

1 SECTION 1. Every executor and administrator is charge-
2 able in his account, with the whole of the goods, chattels, rights
3 and credits of the deceased, which come to his possession;
4 also, with all the proceeds of the real estate, which is sold
5 for the payment of debts and legacies, and with all the in-
6 terest, profit, and income that in any way comes to his
7 hands, from the estate of the deceased.

C. S. p. 448, Sect. 2.

1 SECT. 2. Every executor and administrator, shall ac-
2 count for the personal estate of the deceased, as the same
3 is appraised, except as provided in the following section.

C. S. p. 448, Sect. 3.

1 SECT. 3. An executor or administrator shall not make
2 profit by the increase, nor suffer loss by the decrease or
3 destruction, without his fault, of any part of the personal
4 estate; and he shall account for the excess when he sells
5 any part of the personal estate for more than the appraisal;
6 and, if he sells any for less than the appraisal, he is not re-
7 sponsible for the loss, if it appears to be beneficial to the
8 estate to sell it.

C. S. p. 448, Sect. 4.

1 SECT. 4. The probate court, on the application of the
2 executor or administrator may, at any time, order the per-
3 sonal estate to be sold at private sale, or at public auction,
4 when it appears to be necessary for the purpose of paying

CHAP. LIV.] RENDERING ACCOUNTS BY EXECUTORS. 453

5 debts or legacies, or expenses of administration, or for the
 6 preservation of the property, or when it is requested by all
 7 the heirs residing in this state; or the court may order such
 8 personal estate to be sold, either at private sale or public
 9 auction, as the executor or administrator may find most
 10 beneficial. If the order is to sell at auction, the probate
 11 court shall direct the mode of giving notice of the time and
 12 place of sale.

1 SECT. 5. When the executor or administrator sells per- C. S. p. 448, Sect. 5. *c 45*
 2 sonal estate under an order of the probate court, he shall
 3 account for the same at the price for which it is sold.

1 SECT. 6. Nor executor or administrator is accountable C. S. p. 448, Sect. 6.
 2 for any debts due to the deceased, if it appears that they
 3 remain uncollected without his fault.

1 SECT. 7. The executor or administrator is also account-
 2 able for the income of the real estate, while it remains in C. S. p. 448, Sect. 7.
 3 his possession; and if he uses or occupies part of it, he
 4 shall account for it as may be agreed upon between him and
 5 the parties interested, or adjudged by the court, with their
 6 assent; and if the parties do not agree upon the sum to be
 7 allowed, the same may be ascertained by one or more dis-
 8 interested persons appointed by the probate court, whose
 9 award, being accepted by such court, shall be final.

1 SECT. 8. When an executor or administrator neglects C. S. p. 448, Sect. 8.
 2 or unreasonably delays to raise money, by collecting the
 3 debts or selling the real or personal estate of the deceased,
 4 or neglects to pay over the money he has in his hands, and
 5 the value of the estate is thereby lessened, or unnecessary
 6 cost, or interest accrues, or the persons interested suffer
 7 loss, the same shall be deemed waste, and the damages sus-
 8 tained may be charged against the executor or administra-
 9 tor in his account, or he shall be liable therefor on his ad-
 10 ministration bond.

1 SECT. 9. Every executor or administrator shall render
 2 his account of his administration, within one year from the C. S. p. 448, Sect. 9.
 3 time of his receiving letters testamentary or of adminis- Amended.
 4 tration unless the court gives permission to delay, in con-
 5 sideration that the time for selling the estate and paying the
 6 debts is extended; and he shall render such further ac-
 7 counts of his administration, from time to time, as are re-
 8 quired by the court, until the estate is wholly settled.

1 SECT. 10. The judge of probate shall examine every ex-
 2 ecutor and administrator upon oath as to the truth and cor- New.
 3 rectness of his account before the same is allowed, but such

4 examination may be omitted when no objection is made to
 5 the allowance of the account, and there is no reason to
 6 doubt the justness and correctness thereof; and the heirs,
 7 legatees and distributors may be examined on oath upon
 8 any matter relating to the account of any executor or ad-
 9 ministrator whenever the correctness thereof is called in
 10 question.

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C. S. p. 449, Sect. 10.

1 SECT. 11. The executor or administrator shall be allow-
 2 ed all necessary expenses in the care, management and set-
 3 tlement of the estate, and for his services, such fees as the
 4 law provides, together with all extra expenses: *provided*,
 5 that when the deceased, by his will, makes some other
 6 provision for compensation to his executor, that shall be
 7 deemed a full compensation for his services, unless by a writ-
 8 ten instrument, filed in the probate court, he renounces all
 9 claim to the compensation provided by the will.

C. S. p. 449, Sect. 12.

1 SECT. 12. When an executor or administrator, after
 2 being duly cited by the probate court, neglects to render
 3 his account, he is liable on his bond for all damages which
 4 may accrue, and his bond may be put in suit by any person
 5 interested in the estate.

C. S. p. 449, Sect. 13.

1 SECT. 13. When costs in any case are allowed against
 2 an executor or administrator, execution shall not issue
 3 against the estate of the deceased, in his hands therefor,
 4 but shall be awarded against him as for his own debt; and
 5 the amount paid by him shall be allowed in his administra-
 6 tion account, unless it appears that the action or proceeding
 7 in which the costs are taxed has been prosecuted or resisted
 8 without just cause.

C. S. p. 449, Sect. 14.

1 SECT. 14. Before the administration account of any ex-
 2 ecutor or administrator is allowed, notice shall be given to
 3 all persons interested, of the time and place of examining
 4 and allowing the same; and such notice may be given per-
 5 sonally, to such persons as the probate court deems inter-
 6 ested, or by public notice under the direction of the court.

CHAPTER LV.

PROBATE BONDS AND THE PROSECUTION OF THEM.

1 SECTION. 1. All bonds required by law to be taken in,