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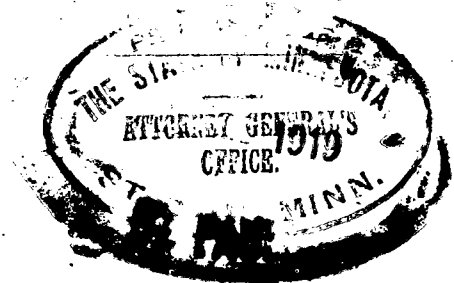
# GENERAL STATUTES

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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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.

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## CHAPTER LV.

### PROBATE BONDS AND THE PROSECUTION OF THEM.

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

2 or by order of the probate court, shall be for such sums and  
 3 with such sureties as the judge of probate directs; they 1860—p. 187, Sect. 1.  
 4 shall run to the judge of probate, unless when otherwise Amended. c 31  
 5 provided, and be filed and preserved with the records of the  
 6 probate court of the county, and in case of any breach of  
 7 the conditions thereof, may be prosecuted in the name and  
 8 for the use or benefit of any person interested therein, when-  
 9 ever the judge of probate directs.

1 SECT. 2. An action may be brought on the bond of any  
 2 executor or administrator by any creditor, when the amount C. S. p. 453, Sect. 2. c 47  
 3 due to him has been ascertained and ordered by the decree  
 4 of distribution to be paid, if the executor or administrator  
 5 neglects to pay the same when demanded.

1 SECT. 3. Such an action may be brought by any person C. S. p. 453, Se t. 3.  
 2 as next of kin to recover his share of the personal estate,  
 3 after a decree of the probate court declaring the amount due  
 4 to him, if the executor or administrator fails to pay the same  
 5 when demanded.

1 SECT. 4. When it appears on the representation of any C. S. p. 453, Sect. 4.  
 2 person interested in the estate, that the executor or admin-  
 3 istrator has failed to perform his duty in any other partic-  
 4 ular than those before specified, the judge of probate may  
 5 authorize any creditor, next of kin, legatee or other per-  
 6 son aggrieved by such failure, to bring an action on the  
 7 bond.

1 SECT. 5. Whenever an executor, administrator or guar- C. S. p. 453, Sect. 5.  
 2 dian refuses or omits to perform any order or decree made Amended.  
 3 by a judge of probate having jurisdiction, for rendering an  
 4 account, or upon a final settlement, or for the payment of  
 5 debts, legacies, or distributive shares, such judge of pro-  
 6 bate may cause the bond of such executor administrator or  
 7 guardian to be prosecuted, and the moneys collected there-  
 8 on applied in the same manner as such moneys ought to  
 9 have been applied by such executor, administrator or guar-  
 10 dian.

1 SECT. 6. On the application of any person authorized by C. S. p. 453, Sect. 7.  
 2 this chapter to commence an action on such bond, the judge  
 3 of probate may grant permission to such person to prose-  
 4 cute the same, and shall thereupon furnish to the applicant,  
 5 on his paying the legal fee, a certified copy of the bond, to-  
 6 gether with a certificate that permission has been granted  
 7 to prosecute it, and the name and residence of the ap-  
 8 plicant.

1 SECT. 7. Judgment for the plaintiff in any action on

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C. S. p. 454, Sect. 8.  
Amended.

2 such bond, brought for the benefit of any particular person,  
3 shall be for the amount of the damages which he shows him-  
4 self entitled to, in consequence of the breach of the condi-  
5 tion of said bond; and successive actions may be brought  
6 on said bond for the benefit of persons injured by any breach  
7 thereof.

C. S. p. 454, Sect. 9.  
Amended.

1 SECT. 8. If judgment is rendered for the plaintiff in any  
2 action upon such bond for any breach thereof in not per-  
3 forming any order or decree of the judge of probate, as  
4 mentioned in the fifth section of this chapter, execution shall  
5 be awarded for the full value of all the estate of the de-  
6 ceased, or ward, that has come to the hands of such executor,  
7 administrator or guardian, and for which he has not satis-  
8 factorily accounted, and for all such damages as have been  
9 occasioned by his neglect or mal-administration.

C. S. p. 454, Sect. 10.

1 SECT. 9. All moneys received on any execution issued on  
2 a judgment in favor of the judge of probate, as mentioned  
3 in the preceding section, shall be paid over to the co-execu-  
4 tor or co-administrator, if there is any, or to such person  
5 other than the defendant therein, as shall then be the right-  
6 ful executor, administrator or guardian, and such moneys  
7 shall be disposed of according to law.

C. S. p. 454, Sect. 12.

1 SECT. 10. Claims for damages on account of the breach  
2 of the conditions of any bond, may be prosecuted by any  
3 executor, administrator, or guardian, in behalf of those he  
4 represents, in the same manner as by persons living and of  
5 full age; and such claims may be prosecuted against the  
6 representatives of deceased persons, in the same manner as  
7 other claims against such deceased person.

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## CHAPTER LVI.

### PARTITION AND DISTRIBUTION OF ESTATES.

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C. S. p. 450, Sect. 1.

1 SECTION 1. Before any partition or division of any es-  
2 tate among the heirs, devisees or legatees, an allowance shall  
3 be made for the necessary expenses of the support of the  
4 children of the deceased, under seven years of age; and the  
5 probate court may order the executor or administrator to re-  
6 tain in his hands sufficient estate for that purpose; except  
7 where some provision has been made by will for their  
8 support.