

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

Edited and Published under the authority of Chapters 15 and 16 of
the Laws of 1866.

ST. PAUL.
PUBLISHED BY DAVIDSON & HALL,
STATE PRINTERS, 170 THIRD STREET.
1872.

CHAPTER LI.

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OF INTESTATES.

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

Personal estate,
how distributed.

First. The widow, if any, shall be allowed all her articles of apparel and ornament, and all the wearing apparel of the deceased, his household furniture, not exceeding in value two hundred and fifty dollars, and other personal property to be selected by her, not exceeding in value two hundred dollars; and this allowance shall be made as well when the widow receives the provisions made for her in the will of her husband, as when he dies intestate.

Second. The widow and children constituting the family of the deceased, shall have such reasonable allowance out of the personal estate, as the probate court deems necessary for their maintenance during the progress of the settlement of the estate, according to their circumstances; which, in case of an insolvent estate shall not be longer than one year after granting administration, nor for any time after the dower and personal estate are assigned to the widow.

Third. When a person dies, leaving children under seven years of age, having no mother, or when the mother dies before the children arrive at the age of seven years, an allowance shall be made for the necessary maintenance of such children, until they arrive at the age of seven years, out of such part of the personal estate, and the income of such part of the real estate as would have been assigned to their mother, if she had been living.

Fourth. If, on the return of the inventory of any intestate estate, it appears that the value of the whole estate does not exceed the sum of one hundred and fifty dollars, the probate court may, by a decree for that purpose, assign for the use and support of the widow and children of such intestate, or for the support of the children under seven years of age, if there is no widow, the whole of such estate, after the payment of the funeral charges, and expenses of administration.

Fifth. If the personal estate amounts to more than one hundred and fifty dollars, and more than the allowances mentioned in the preceding sub-divisions of this section, the same shall be applied to the payment of the debts of the deceased, with the charges of his funeral, and settling of his estate.

Sixth. The residue, if any, of the personal estate, shall be distributed in the same proportion, and to the same persons, and for the same purposes as prescribed for the descent and disposition of the real estate, except that the widow, if any, shall be entitled to receive the same share of such residue, as a child of such intestate would be entitled to.

Which probate court to have jurisdiction.

SEC. 2. When any person dies intestate, being an inhabitant of this state, letters of administration of his estate shall be granted by the probate court of the county of which he was an inhabitant or resident at the time of his death. If such deceased person, at the time of death resides in any other territory, state or country, leaving estate to be administered in this state, administration thereof shall be granted by the probate court of any county in which there is estate to be administered; and the administration first legally granted, shall extend to all the estate of the deceased in this state, and exclude the jurisdiction of the probate court of every other county.

Who entitled to letters of administration.

SEC. 3. Administration of the estate of a person dying intestate, shall be granted to one or more of the persons hereinafter mentioned, and they shall be respectively entitled to the same in the following order:—

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

Second. If the widow, or next of kin, or the person selected by them is unsuitable or incompetent, or if the widow or next of kin neglects for thirty days after the death of the intestate to apply for administration, or to request that administration be granted to some other person, the same may be granted to one or more of the principal creditors, if any such are competent and willing to take it.

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

Administrator shall give bond.

SEC. 4. Every administrator, before he enters upon the execution of his trust, and before letters of administration are granted to him, shall give a bond to the judge of probate, with such sureties as he shall direct and approve, with the same conditions as required in case of an executor, with such variations only as are necessary to make it applicable to the case of an administrator.

Special administrator appointed, when.

SEC. 5. When there is a delay in granting letters testamentary or of administration, occasioned by an appeal from the allowance or disallowance of a will, or from any other cause, the judge of probate may appoint an administrator to act in collecting and taking charge of the estate of the deceased, until the question on the allowance of the will, or such other question as occasions the delay, is terminated, and an executor or administrator is thereupon appointed; and no appeal shall be allowed from the appointment of such special administrator.

Powers and duties of special administrator.

SEC. 6. An administrator, appointed according to the provisions of the preceding section, shall collect all the goods, chattels, and debts of the deceased, and preserve the same for the executor or administrator who may afterward be appointed, and for that purpose may commence and maintain actions as an administrator, and sell such perishable and other personal estate as the probate court may order to be sold.

Not liable for debts.

SEC. 7. Such special administrator shall not be liable to an action by any creditor, or to be called upon in any other way to pay the debts against the deceased.

Shall give bond.

SEC. 8. Every such special administrator shall, before entering upon the duties of his trust, give a bond to the judge of probate in such sum as he shall direct, with a condition that he will make and return a true

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inventory of all the goods, chattels, rights, credits and effects of the deceased, which come to his possession or knowledge; and that he will truly account for all the goods, chattels, debts and effects of the deceased, which shall be received by him, whenever required by the probate court, and shall deliver the same to the person who shall afterward be appointed executor or administrator of the deceased, or to such other person as shall be legally authorized to receive the same.

SEC. 9. Upon granting letters testamentary or of administration on the estate of the deceased, the power of such special administrator shall cease, and he shall forthwith deliver to the executor or administrator, all the goods, chattels, money or effects of the deceased in his hands; and the executor or administrator may be admitted to prosecute to final judgment any action commenced by such special administrator.

Powers shall cease, when.

SEC. 10. If any person, before the granting of letters testamentary or of administration, embezzles or alienates any of the moneys, goods, chattels or effects of any deceased person, such person shall stand chargeable and be liable to the action of the executor or administrator of such estate, for double the value of the property so embezzled or alienated, to be recovered for the benefit of such estate.

Liability of persons embezzling or alienating goods, &c., before letters issue.

SEC. 11. When any sole executor or administrator dies without having fully administered the estate, the probate court may grant letters of administration with the will annexed, or otherwise, as the case may require, to some suitable person to administer the goods and estate of the deceased, not already administered.

Administration with will annexed granted on death of sole executor.

SEC. 12. If an administrator resides out of this state, or neglects after due notice by the judge of probate to render his account, and to settle the estate according to law, or to perform any decree of said court, or absconds or becomes insane, or otherwise unsuitable or incapable of discharging the trust, the probate court may remove such administrator.

Administrator may be removed, when.
4 Min. 25.

SEC. 13. When an unmarried woman who is administratrix alone or jointly with another person, marries, her marriage extinguishes her authority as administratrix.

Marriage of administratrix extinguishes her authority.

SEC. 14. When an administrator is removed, or his authority extinguished, the remaining administrator, if any, may execute the trust; if there is no other, the court of probate may commit administration of the estate, not already administered, to some suitable person, as in case of the death of a sole administrator.

When administrator is removed, who may execute trust.

SEC. 15. An administrator appointed in the place of any former executor or administrator for the purpose of administering the estate not already administered, has the same power, and shall proceed in settling the estate, in the same manner as the former executor or administrator had or should have done; and may prosecute or defend any action commenced by or against the former executor or administrator, and have execution on any judgment recovered in the name of such former executor or administrator.

Powers of administrator de bonis non.

SEC. 16. If after the granting of letters of administration by any probate court, on the estate of any deceased person, as if he had died intestate, a will of such deceased person is duly proved and allowed by such court, the first administration shall, by decree of said court, be revoked, and the powers of the administrator cease, and he shall thereupon surrender his letters of administration into the probate court, and render an account of his administration, within such time as the court shall direct.

First administration to be revoked on proving will.

SEC. 17. The executor of the will, in such case is entitled to demand, sue for and collect all the goods, chattels, rights and credits of the deceased, remaining unadministered, and may be admitted to prosecute to

Powers of executor in such cases.

final judgment and suit commenced by the administrator before the revocation of his letters of administration.

Acts of executor or administrator before revocation of letters, valid.

SEC. 18. All acts of an executor or administrator, as such, before the revocation of his letters testamentary or of administration, are valid to all intents and purposes.

Joint or separate bonds may be taken.

SEC. 19. When two or more persons are appointed administrators on any estate, the judge of probate may take a joint or separate bond with sureties.

Notice of application for appointment of administrator, how given.

SEC. 20. When application is made to the judge of probate for the appointment of an administrator of an intestate estate, or for letters of administration with the will annexed, he shall cause notice of the same, and of the time and place of hearing thereof, to be published for three successive weeks in such newspaper as he may direct.

CHAPTER LII.

INVENTORY AND COLLECTION OF THE EFFECTS OF DECEASED PERSONS.

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Executor or administrator to make inventory.

SECTION 1. Every executor or administrator shall, within three months after his appointment, make and return into the probate court a true inventory of the real estate, and of all the goods, chattels, rights and credits of the deceased, which have come to his possession or knowledge; but an executor who is a residuary legatee, and has given bond to pay all the debts and legacies, as provided by law, shall not be required to return an inventory.

Appraisers to be appointed and sworn.

SEC. 2. The estate and effects, comprised in the inventory, shall be appraised by two or more disinterested persons, appointed by the judge of probate for that purpose, who shall be sworn to the faithful discharge of their trust; and if any part of such estate or effects are in any other county, appraisers thereof may be appointed in such county by said judge.

Appraisal how made and certified

SEC. 3. The appraisers shall set down, opposite to each item in such inventory, distinctly, in figures, the value thereof in money, and deliver the same, certified by them to the executor or administrator.

Property allowed widow to be inventoried and appraised separately.

SEC. 4. A separate and distinct inventory and appraisal shall be made and returned, as aforesaid, of all the household furniture and other personal property, which may be allowed to the widow, pursuant to the