

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AND A LIST OF ACTS PREVIOUSLY REPEALED,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.

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CHAPTER LVII.

See act. 1871-112

SALES OF LANDS BY EXECUTORS, ADMINISTRATORS AND GUARDIANS.

SECTION

1. Real estate of deceased sold, when.
2. License to sell obtained, how.
3. Notice of petition and order to show cause.
4. Order how published and served.
5. Proceedings on hearing.
6. Whole estate may be sold, when.
7. Bond—how conditioned.
8. Bond—how prosecuted.
9. Order of sale made, when.
10. Shall contain what.
11. License to sell extends to reversion of dower.
12. Administrator with will annexed, licensed to sell, when.
13. Contract made by deceased, interest in may be sold.
14. Sale, how made and confirmed—purchaser to give bond.
15. Bond, how conditioned.
16. Assignment of contract to be made.
17. Proceeds of sale, how disposed of.
18. Sales and conveyances subject to charges, &c.

BY FOREIGN EXECUTOR.

19. Foreign executor, how licensed to sell real estate in this state.

BY GUARDIANS FOR THE PAYMENT OF DEBTS.

20. Guardians licensed to sell real estate of ward, when.
21. Whole estate sold, when.

FOR MAINTENANCE AND INVESTMENT.

22. Sale of real estate for support of ward.
23. Proceeds of sale how applied or invested.
24. Investment, how made.
25. Petition for sale to show, what.
26. Notice of hearing to be given.
27. Proceedings on hearing.
28. License to sell granted, when.

BY FOREIGN GUARDIANS.

29. Foreign guardian, how to obtain leave to sell real estate of ward in this state.

PROVISIONS COMMON TO SALES BY GUARDIANS.

30. Condition of granting license.

SECTION

31. Notice of petition, on whom served.
32. Notice, how published and served.

PROVISIONS COMMON TO SALES BY EXECUTORS, ADMINISTRATORS AND GUARDIANS.

33. Bond to be given in all cases.
34. Court to deliver certified copy of order—sale within what time made.
35. Notice of sale, how given and what to contain.
36. Sale to be made at public auction.
37. Executor not to be purchaser.
38. Length of credit—security.
39. Return of proceedings on sale.
40. Sale confirmed, when.
41. Executor et als. to take oath—form of oath.
42. Proof of notice of sale to be filed and recorded.
43. Sale may be recorded.
44. Notice of adjournment, how given.
45. Surplus of proceeds of sale, considered real estate.
46. Limitation of action.
47. Sale not to be avoided, when.
48. Executor et als. liable for neglect or misconduct.
49. Validity of sale not effected by irregularity, when.
50. Executor et als. making fraudulent sale, how liable.

SALE AND CONVEYANCE OF REAL ESTATE BELONGING TO LUNATICS.

51. Real estate of lunatics sold, when.
52. Bond shall be given.
53. Bond prosecuted, when.
54. Application, how considered.
55. Sale may be ordered, when.
56. Real estate not to be sold or leased, when.
57. Report to be made to court.
58. Sales, &c., valid, when.
59. Court to make order concerning proceeds of sale—return of investment to be made.
60. Effect of sale—proceeds of sale to be invested.
61. Agreement in lieu of dower.
62. Dower to be released, when.

1869-75

1869-76

SALES BY EXECUTORS AND ADMINISTRATORS.

SECTION 1. When the personal estate of a deceased person is insufficient to pay his debts, with the charges of administration, his executor or administrator may sell his real estate for that purpose, upon obtaining a license therefor, and proceeding as herein provided.

Real estate of deceased sold, when.

SEC. 2. To obtain such license, the executor or administrator shall present a petition to the probate court, from which he received his appointment, setting forth the personal estate that has come into his hands, the disposition thereof, and how much if any, remains undisposed of; the debts outstanding against the deceased, as far as the same can be ascertained; a description of all the real estate of which the testator or intestate died seized, the condition and value of the respective portions or lots, the persons interested in said estate, with their residences if known, and if unknown that fact shall be stated; which petition shall be verified by the oath of the party presenting the same.

License to sell how obtained.

SEC. 3. If it appears by such petition, that there is not sufficient personal estate in the hands of the executor or administrator to pay the debts

Notice of petition and order to show cause.

outstanding against the deceased, and the expenses of administration, and that it is necessary to sell the whole, or some portion of the real estate for the payment of such debts, the judge of probate shall thereupon make an order directing all persons interested in the estate to appear before him at a time and place therein to be specified, not less than six weeks nor more than ten weeks from the time of making such order, to show cause why a license should not be granted to the executor or administrator applying therefor, to sell so much of the real estate of the deceased as shall be necessary to pay such debts.

Order, how published and served

SEC. 4. Every such order shall be published at least four successive weeks in such newspaper as the court directs, the last of which publications shall be at least fourteen days before the day of hearing, and a copy of such order shall be served personally on all persons interested in the estate residing in the county where the application is made, at least fourteen days before the day of hearing, and on all other persons interested by depositing forthwith a copy of such order in the post office with postage prepaid, directed to them respectively at their place of residence, unless it appears that their residence is unknown: *provided*, that if all persons interested in the estate signify in writing their assent to such sale, the notice may be dispensed with.

Proceedings on hearing.

SEC. 5. The judge of probate, at the time and place appointed in such order, or at such other time as the hearing is adjourned to, upon proof of the due service or publication of a copy of the order or upon filing the consent in writing, to such sale of all the persons interested, shall proceed to the hearing of such petition, and if such consent is not filed shall hear and examine the allegations and proofs of the petitioner, and of all persons interested in the estate, who oppose the application.

Whole estate may be sold, when.

SEC. 6. If it appears to the court that it is necessary to sell a part of the real estate, and that by a sale of such part the residue of the estate or some specific part or piece thereof, would be greatly injured, said court may license a sale of the whole estate, or of such part thereof as may be judged necessary, and most for the interest of all concerned.

Bond to be given—how conditioned

SEC. 7. License shall not be granted, if any of the persons interested in the estate gives bond to the judge of probate, in such sum and in such sureties as he directs and approves, with condition to pay all the debts, and the expenses of administration so far as the goods and chattels, rights and credits, of the deceased are insufficient therefor, within such time as the judge of probate directs.

Bond, how prosecuted.

SEC. 8. The bond mentioned in the preceding section shall be for the security, and may be prosecuted for the benefit of the creditors, as well as the executor or administrator.

Judge of probate shall make order of sale, when.

SEC. 9. If the judge of probate is satisfied, after a full hearing upon the petition, and an examination of the proof and allegations of the parties interested that a sale of the whole or some portion of the real estate is necessary for the payment of valid claims against the deceased, and charges of administration, or if such sale is assented to by all persons interested, he shall thereupon make an order of sale, authorizing the executor or administrator to sell the whole or so much, and such part of the real estate described in the petition, as he deems necessary or beneficial.

Order shall contain, what.

SEC. 10. The order shall specify the lands to be sold; and the judge of probate may therein direct the order in which several tracts, lots or parcels, shall be sold; and if it appears that any part of such real estate has been devised, and not charged in such devise with the payment of debts, the judge of probate shall order that part descended to heirs to be sold before that so devised; and if it appears that any lands devised or descended, have been sold by the heirs or devisees, then the lands in their hands remaining unsold shall be ordered to be first sold.

SEC. 11. License to sell real estate, as provided in this chapter, may extend to the reversion of the dower of the widow of a deceased person; and if such reversion is not sold with the other real estate, it may be sold after the expiration of the widow's term.

License to sell extends to reversion of dower.

SEC. 12. When a testator has given a legacy which with his debts and the charges of administration, his goods, chattels, rights and credits are insufficient to pay, the executor or administrator with the will annexed may be licensed to sell his real estate for that purpose, in the same manner, and upon the same terms and conditions as are prescribed in this chapter, in the case of a sale for the payment of debts.

Administrator with will annexed, licensed to sell, when.

SEC. 13. If a deceased person, at the time of his death, was possessed of a contract for the purchase of land, his interest in such land, and under such contract, may be sold on the application of his executor or administrator, in the same cases, in the same manner, and upon like terms and conditions as are prescribed in respect to land of which he died seized, except as hereinafter provided.

Contract made by deceased, interest in may be sold.

SEC. 14. Such sale shall be made subject to all payments that may thereafter become due on such contract; and if there are any such payments thereafter to become due, such sale shall not be confirmed by the judge of probate until the purchaser executes a bond to the executor or administrator, for his benefit and indemnity, and for the benefit and indemnity of the persons entitled to the interest of the deceased in the lands so contracted for, in double the whole amount of payments thereafter to become due on such contract, with such sureties as the judge of probate approves.

Sale, how made and confirmed—purchaser to give bond.

SEC. 15. The bond shall be conditioned that such purchaser will make all payments for such land that shall become due after the date of such sale, and fully indemnify the executor or administrator, and the persons so entitled, against all demands, costs, charges and expenses by reason of any covenant or agreement contained in such contract; but if there is no payment thereafter to become due on such contract, no bond shall be required of the purchaser.

Bond, how conditioned.

SEC. 16. Upon the confirmation of such sale, the executor or administrator shall execute to the purchaser an assignment of such contract, which shall invest in the purchaser, his heirs and assigns, all the right, interest and title of the persons entitled to the interest of the deceased in the land sold, at the time of the sale, and such purchaser shall have the same rights and remedies against the vendor of such land, as the deceased would have had, if living.

Assignment of contract to be made.

SEC. 17. The proceeds of every such sale of the interest of the deceased persons in lands under contract as hereinbefore mentioned, shall be disposed of in all respects in the same manner as the proceeds of the sale of lands of which the deceased died seized, according to the provisions of this chapter.

Proceeds of sale, how disposed of.

SEC. 18. All sales and conveyances of land made by executors or administrators pursuant to the provisions of this chapter, shall be subject to all charges thereon, by mortgage or otherwise, existing at the time of the death of the testator or intestate; and in case the estate of the deceased is in any way liable for the amount secured by any such mortgage or for any such charge, the sale shall not be confirmed by the judge of probate, until the purchaser executes a bond to the executor or administrator, as required in the case of a sale of a contract for the purchase of lands, on which payments are to become due.

Sales and conveyances subject to all charges, &c.

BY FOREIGN EXECUTORS.

Foreign executor
how licensed to
sell real estate in
this state.

1868-10x

SEC. 19. An executor or administrator appointed in another state, or in a foreign country, on the estate of a person dying out of this state, upon whose estate there is no executor or administrator appointed in this state, may file an authenticated copy of his appointment in the probate court for any county in which there is real estate of the deceased; after which, he may be licensed by the same probate court to sell real estate for the payment of debts, legacies, and charges of administration, in the same manner and upon the same terms and conditions as are prescribed in the case of an executor or administrator appointed in this state, except as hereinafter provided.

BY GUARDIANS FOR THE PAYMENT OF DEBTS.

Guardian licensed to sell real estate of ward, when.

SEC. 20. When the goods, chattels, rights and credits, in the hands of a guardian are insufficient to pay all the debts of the ward, with the charges of managing the estate, the guardian may be licensed to sell his real estate, in like manner, and upon like terms and conditions as are prescribed in this chapter, in the case of a sale by executors or administrators, except as hereinafter provided.

Whole estate sold, when.

SEC. 21. If it is represented in the petition, and appears necessary to sell some part of the real estate of the ward, and that by such partial sale, the residue of the estate, or of some specific piece or part thereof would be greatly injured, the court may license a sale of the whole of the estate, or of such part thereof as it deems necessary and most for the interest of all concerned.

FOR MAINTENANCE AND INVESTMENT.

Sale of real estate for support of ward, when.

SEC. 22. When the income of the estate of a ward is insufficient to maintain him and his family, or to educate the ward when a minor, or the children of any ward, or when it appears that it would be for the benefit of a ward that his real estate or any part thereof should be sold, and the proceeds thereof put out on interest or invested in some productive stock, his guardian may sell the same upon obtaining a license therefor, and proceeding therein as hereinafter provided.

Proceeds of sale, how applied or invested.

SEC. 23. If the estate is sold for any purpose mentioned in the preceding section, the guardian shall apply the proceeds of the sale to such purpose, so far as necessary, and shall put out the residue, if any, on interest, or invest it in the best manner in his power, until the capital shall be wanted for the maintenance of the ward and his family, or for the education of the ward when a minor, or the children of any ward, in which case the capital may be used for that purpose, as far as may be necessary, in like manner as if it had been personal estate.

Investment, how made.

SEC. 24. If the estate is sold in order to invest the proceeds, the guardian shall make the investment according to his best judgment, or in pursuance of any order that may be made by the probate court.

Petition for sale, to show what.

SEC. 25. To obtain a license for such sale, the guardian shall present to the probate court a petition, setting forth the estate of his ward, real and personal, its condition, and the facts and circumstances on which the petition is founded, tending to show the necessity or expediency of a sale; which petition shall be verified by the oath of the petitioner.

Notice of hearing to be given.

SEC. 26. If it appears to the court from such petition that it is necessary, or would be beneficial to the ward that such real estate, or some part of it, be sold, the court shall thereupon make an order directing the

next of kin of the ward, and all persons interested in the estate, to appear before such court at a time and place therein to be specified, not less than four nor more than eight weeks from the time of making such order, to show cause why a license should not be granted for the sale of such estate.

SEC. 27. The judge of probate at the time and place appointed in such order, or at such other time as the hearing shall be adjourned to, upon proof of the due service of the order, and upon filing the certificate of approbation of the commissioners of the county, when necessary, shall hear and examine the proofs and allegations of the petitioner and of the next of kin, and of all other persons interested in the estate who oppose the application.

Proceedings on hearing.

SEC. 28. If, after a full examination, it appears to the court either that it is necessary, or that it would be for the benefit of the ward, that the real estate, or any part of it, be sold, such court may grant a license therefor, specifying therein whether the sale is to be made for the maintenance of the ward and his family, or for the education of the ward or his children, or in order that the proceeds may be invested as aforesaid.

License to sell granted, when.

BY FOREIGN GUARDIANS.

SEC. 29. When a minor or other person residing out of this state, is under guardianship in the state or country in which he resides, and has no guardian appointed in this state, the foreign guardian may file an authenticated copy of his appointment in the probate court for any county in which there is real estate of the ward; after which he may be licensed to sell real estate of the ward in any county, in the same manner, and upon the same terms and conditions as are prescribed in this chapter in the case of a guardian appointed in this state, except as hereinafter provided.

Foreign guardian how to obtain leave to sell real estate of ward in this state.
4 Min. 412.

1890 - 12 3

PROVISIONS COMMON TO SALES BY GUARDIANS.

SEC. 30. No license shall be granted to any guardian to sell real estate of his ward except in case of minors, unless the commissioners of the county of which the ward is an inhabitant, or in which he resides, certify to the judge of probate, in writing, their approbation of such proposed sale, and that they deem it necessary.

Condition of granting license.

SEC. 31. All those who are next of kin, and heirs apparent or presumptive of the ward, shall be considered as interested in the estate, and may appear and answer to the petition of the guardian, and when personal notice of the time and place of hearing the petition is required to be given, they shall be notified as persons interested, according to the provisions respecting similar sales by executors and administrators.

Notice of petition, on whom to be served.

SEC. 32. Such notice shall be published at least four successive weeks in such newspaper as the court directs, the last of which publications shall be at least fourteen days before the day of hearing, and a copy of such order shall be served personally on all persons interested, as aforesaid, residing in the county where the application is made, at least fourteen days before the day of hearing, and on all other persons interested, by depositing forthwith a copy of such notice in the post office, with postage pre-paid, directed to them respectively at their place of residence, unless it appears that their residence is unknown.

Notice, how published and served.

PROVISIONS COMMON TO SALES BY EXECUTORS, ADMINISTRATORS AND GUARDIANS.

1869 - 75

SEC. 33. Every executor, administrator and guardian licensed to sell

Bond to be given in all cases.

real estate for any purpose whatever, whether appointed in this state or elsewhere, shall, before sale, give bond to the judge of probate with sufficient surety or sureties, to be approved by said judge, conditioned to sell the same and account for and dispose of the proceeds as provided by law, and a further bond may be required by said judge whenever he considers one necessary.

Court to deliver certified copy of order.

SEC. 34. After an order of sale is made, and said bond filed with the judge of probate, he shall deliver a certified copy of said order to the executor, administrator or guardian, who shall thereupon be authorized to sell the real estate as therein directed, within one year after the making of such order, or within such further time, not exceeding one year, as may be allowed by said judge.

Sale, within what time made.

Notice of sale, how given—to contain description of lands.

SEC. 35. When a sale is ordered, notice of the time and place of holding the same shall be posted up in three of the most public places in the county in which the land is situated, and shall be published in a newspaper, if there is one printed in the same county, and if there is none, then in such paper as the court may direct, for three weeks successively next before such sale; in which notice the lands and tenements to be sold shall be described with common certainty.

1892-132

Sale to be made at public auction.

SEC. 36. Every sale under the provisions of this chapter shall be made by public auction in the county where the lands are situated, between the hours of nine o'clock in the morning, and the setting of the sun the same day.

1892-132

Executor, &c., not to be purchaser.

SEC. 37. No executor, administrator or guardian making the sale, shall directly or indirectly purchase or be interested in the purchase of any part of the real estate so sold: and all sales made contrary to the provisions of this section shall be void; but this section shall not prohibit any such purchase by a guardian for the benefit of his ward.

Length of credit given—security.

SEC. 38. On such sale, the executor, administrator or guardian may give such length of credit, not exceeding one year, and for not more than one-half of the purchase money, as shall seem best calculated to produce the highest price, and shall have been directed, or shall be approved by the judge of probate, and shall secure the moneys for which credit is given, with interest, by a bond of the purchaser, and a mortgage of the premises sold.

Return of proceedings on sale to be made.

SEC. 39. The executor, administrator or guardian making any sale, shall immediately make a return of his proceedings upon the order of sale, in pursuance of which it is made, to the judge of probate granting the same, who shall examine the proceedings, and may also examine such executor, administrator or guardian, or any other person, on oath, touching the same; and if he is of the opinion that the proceedings were unfair, or that the sum bid is disproportionate to the value, and that a sum exceeding such bid, at least ten per cent. exclusive of the expenses of a new sale, may be obtained, he shall vacate such sale, and direct another to be had, of which notice shall be given; and the sale shall be conducted in all respects as if no previous sale had taken place.

Sale vacated, and re-sale ordered, when.

Sale confirmed, when.

SEC. 40. If it appears to the judge of probate that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, or if disproportionate, that a greater sum than above specified can not be obtained, he shall make an order confirming such sale, and directing conveyances to be executed.

Executor et al. to take oath—form of oath.

SEC. 41. Every executor, administrator and guardian licensed to sell real estate, as provided in this chapter, shall, before fixing on the time and place of sale, take and subscribe an oath in substance as follows: that in disposing of the estate which he is licensed to sell, he will use his best judgment in fixing on the time and place of sale, and will exert his

utmost endeavors to dispose of the same in such manner as will be most for the advantage of all persons interested; which oath shall be filed with the judge of probate before confirmation of the sale.

SEC. 42. An affidavit of the executor, administrator, or guardian, or of some other person having knowledge of the fact, that notice of any such sale was given as provided in this chapter, being made, and filed and recorded in the probate court, together with a copy of the notice, shall be admitted as evidence of the time, place and manner of giving the notice.

Proof of notice of sale to be filed and recorded.

SEC. 43. If at the time appointed for any such sale, the executor, administrator or guardian deems it for the interest of all persons concerned therein, that the sale be postponed, he may adjourn the same from time to time, not exceeding in all three months.

Sale may be adjourned.

SEC. 44. In cases of adjournment, notice thereof shall be given by a public declaration, at the time and place first appointed for the sale, and if the adjournment is for more than one day, further notice shall be given by posting or publishing the same, or both, as time and circumstances may admit.

Notice of adjournment, how given.

SEC. 45. In all sales by executors, administrators or guardians, appointed in this state or elsewhere, of part or the whole of the real estate of a deceased person or ward, the surplus of the proceeds remaining on the final settlement of the accounts shall be considered as real estate, and be disposed of to the same persons, and in the same proportions, as the real estate would descend or be disposed of by the laws of this state, if not sold.

Surplus of proceeds of sale, considered real estate.

SEC. 46. No action for the recovery of any estate sold by an executor or administrator under this chapter shall be maintained by any heir or other person claiming under the deceased, unless it is commenced within five years next after the sale; and no action for any estate so sold by a guardian shall be maintained by the ward, or by any person claiming under him, unless commenced within five years next after the termination of the guardianship; except that persons out of the state and minors, and others under legal disability to sue at the time when the right of action first accrues, may commence such action at any time within five years after the removal of the disability, or their return to the state.

Limitation of action.

SEC. 47. In case of an action relating to any estate sold by an executor, administrator or guardian, in which an heir or person claiming under the deceased, or in which the ward or any person claiming under him, shall contest the validity of the sale, it shall not be avoided on account of any irregularity in the proceedings: *provided*, it appears—

Sale not to be avoided, when.

First. That the executor, administrator or guardian was licensed to make the sale, by the probate court having jurisdiction;

Second. That he gave a bond which was approved by the judge of probate, in case a bond was required upon granting a license;

Third. That he took the oath prescribed in this chapter;

Fourth. That he gave notice of the time and place of sale, as in this chapter prescribed; and,

Fifth. That the premises were sold accordingly, by public auction, and the sale confirmed by the court, and that they are held by one who purchased them in good faith.

SEC. 48. If there is any neglect or misconduct in the proceedings of the executor, administrator or guardian, in relation to such sale, by which any person interested in the estate suffers damage, he may recover compensation therefor on the probate bond, or otherwise, as the case may require.

Executor etals., liable for neglect or misconduct.

SEC. 49. If the validity of a sale is drawn in question by a person claiming adversely to the title of the deceased, or the ward, or claiming

Validity of sale not affected by irregularity, when.

under a title that is not derived from or through the deceased or ward, the sale shall not be void on account of any irregularity in the proceedings, if it appears that the executor, administrator or guardian was licensed to make the sale by a probate court having jurisdiction, and that he did accordingly execute and acknowledge, in legal form, a deed for the conveyance of the premises.

Executor, et als., making fraudulent sale, how liable.

SEC. 50. Any executor, administrator, or guardian who fraudulently sells any real estate of his testator, intestate or ward, contrary to the provisions of this chapter, shall be liable in double the value of the land sold, as damages, to be recovered in a civil action, by the person having an inheritance therein.

SALE AND CONVEYANCE OF REAL ESTATE BELONGING TO LUNATICS.

Real estate of lunatic, sold, when.

1867-118

SEC. 51. Any lunatic seized of any real estate, or entitled to any term for years in lands, or having any tenancy by the curtesy, or any tenancy by the curtesy initiate, may, by guardian duly appointed, or if such lunatic is a married woman, having any real estate held by her as her separate estate, or having any dower admeasured, or right of dower or inchoate right of dower in any real estate, she may, by guardian duly appointed, or by her husband, apply to the district court of the district in which such real estate or some part thereof is situate, or if such lunatic is a married woman, in the district in which her husband resides, for the sale or disposition of the same in the manner hereinafter directed.

Bond to be given.

1867-119

SEC. 52. On such application said guardian or said husband shall give bond to the judge of probate of the county in which such proceedings are had for the benefit of such lunatic, (in addition to any bond given on appointment as guardian,) to be filed with the judge of said probate court, in such penalty, with sureties, and in such form as the said district court shall direct, conditioned for the faithful performance of the trust reposed, for the paying over, investing and accounting for all moneys that shall be received by such guardian or husband, according to the order of any court having authority to give directions in the premises and for the observance of the orders and directions of the court in relation to the trust.

Bond prosecuted, when.

SEC. 53. If such bond is forfeited, the court shall direct it to be prosecuted for the benefit of the party injured.

Application, how considered.

SEC. 54. Upon the filing of such bond the court may proceed in a summary manner by reference to a referee, to inquire into the merits of such application.

Sale may be ordered, when.

SEC. 55. Whenever it appears satisfactorily that a disposition of any part of the real estate of such lunatic, or of any interest in any term for years, or of a tenancy by the curtesy, or tenancy by the curtesy initiate, in any real estate, or a disposition of any real estate, or of her interest in a term of years of a married woman who is a lunatic, held by her as her separate estate, or of any dower admeasured, or right of dower, or inchoate right of dower of a married woman who is a lunatic, is necessary and proper either for the support and maintenance of such lunatic, or for his education; or that the interest of such lunatic requires or will be substantially promoted by such disposition on account of any part of such property being exposed to waste and dilapidation, or on account of its being wholly unproductive, or when the same has been contracted to be sold and a conveyance thereof cannot be made by reason of such lunacy, or for any other peculiar reasons or circumstances, the court may order the letting for a term of years, or the sale or other disposition of such real estate or interest to be made by such guardian or husband of

such married woman who is a lunatic, in such manner and with such restrictions as shall be deemed expedient, or may order the fulfillment of said contract, by conveyance by such guardian or husband according to the terms of the contract.

SEC. 56. But no real estate or term of years of any interest in real estate hereinbefore named, shall be sold, leased or disposed of in any manner against the provisions of any last will, or of any conveyance by which such estate, or term, or interest was devised or granted to such lunatic.

Real estate not to be sold or leased, when.

SEC. 57. Upon an agreement for the sale, leasing or other disposition of such property being made, or upon any conveyance in fulfillment of a contract being executed in pursuance of such order, the same shall be reported to the court on the oath of the guardian or husband making or executing the same, and, (except in case of a conveyance to fulfill a contract,) if the report is confirmed, a conveyance shall be executed under the direction of the court.

Report to be made to court.

SEC. 58. All sales, leases, dispositions, and conveyances, made in good faith by such guardian or husband in pursuance of such orders, shall be valid and effectual as if made by such lunatic when of sound mind.

Sales, &c. valid, when.

SEC. 59. The court shall make order for the application and disposition of the proceeds of such property, and for the investment of the surplus belonging to such lunatic, so as to secure the same for the benefit of such lunatic, and shall direct the ascertainment of the value of such tenancy by the curtesy, or tenancy initiate, or dower, or right of dower, or inchoate right of dower, and shall direct a return of such investment and disposition to be made on oath, as soon as may be, and shall require accounts to be rendered periodically by any committee or other person who may be intrusted with the disposition of the income of such proceeds.

Court to make order concerning proceeds of sale.

Return to be made.

SEC. 60. No sale made as aforesaid, of the real estate or interest therein of any lunatic, shall give to such lunatic any other or greater interest or estate in the proceeds of such sale than such lunatic had in the estate so sold; but the said proceeds shall be deemed real estate of the same nature as the property sold, or the interest therein of the said lunatic, and the court shall make order for the preservation of the same.

Effect of sale.

Proceeds of sale to be invested.

SEC. 61. If the real estate of any lunatic, or any part of it is subject to dower or other life estate, and the person entitled thereto consents, in writing, to accept a gross sum in lieu of such dower or other life estate, or the permanent investment of a reasonable sum, in such manner as that the interest thereof be made payable to the person entitled to such dower or life estate during life, the court may direct the payment of such sum in gross, or the investment of such sum as shall be deemed reasonable and be acceptable to the person entitled to said dower or other life estate, or right therein, actual or contingent, in manner aforesaid.

Agreement in lieu of dower.

SEC. 62. Before any such sum is paid or investment made, the court shall be satisfied that an actual release of such right of dower or other life estate, actual or contingent, has been executed.

Dower to be released.