

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AND A LIST OF ACTS PREVIOUSLY REPEALED,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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the Laws of 1866.

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same according to the terms of the intended conveyance, in like manner as if they had been conveyed in pursuance of the decree, and such right may be enforced, if necessary, by said court, according to the course of practice therein.

SEC. 8. If the person to whom the conveyance was to be made dies before the commencement of proceedings according to the provisions of this chapter, or before the conveyance is completed, any person who would have been entitled to the estate under him as heir, devisee or otherwise, in case the conveyance had been made, according to the terms of the contract, or the executor or administrator of such deceased person, for the benefit of the person so entitled, may commence such proceedings, or prosecute the same, if already commenced, and the conveyance shall thereupon be so made as to vest the estate in the same persons who would have been so entitled to it, or in the executor or administrator for their benefit.

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SECTION 1. The judge of probate in each county, when it appears to him necessary, or convenient, may appoint guardians to minors and others, being inhabitants or residents in the same county, and also to such as reside out of the state, and have any estate within the same.

Judge of probate may appoint guardians.

OF MINORS.

SEC. 2. Males of the age of twenty-one years and females of the age of eighteen years shall be considered of full age for all purposes; before those ages they shall be considered minors.

Minors, who are.

Minors may appoint guardian, when.

SEC. 3. If the minor is under the age of fourteen years, the judge of probate may nominate and appoint his guardian; if he is above that age, he may nominate his own guardian, who, if approved by the judge shall be appointed accordingly. If not so approved, or if the minor resides out of this state, or if after being cited by the judge, he neglects for ten days to nominate a suitable person, the judge may nominate and appoint his guardian, in the same manner as if he was under the age of fourteen years.

May appoint before justice of the peace, when.

SEC. 4. A minor above the age of fourteen years may nominate his guardian before a justice of the peace, or the city or town clerk, who shall certify the fact to the probate court.

Powers of guardian.

SEC. 5. The guardian of a minor shall have the custody and tuition of his ward and the care and management of all his estate; and unless sooner discharged according to law, shall continue in office until the minor arrives at full age. But the father of the minor, if living, and in case of his death, the mother, while she remains unmarried, they being respectively competent to transact their own business, and not otherwise unsuitable, shall be entitled to the custody of the person of the minor and the care of his education.

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Testamentary guardian may be appointed—powers and duties.

SEC. 6. A father may, by his last will in writing, appoint guardians for his children, whether born at the time of making the will or afterwards, to continue during the minority of the child or a less time. Such testamentary guardian shall have the same powers and perform the same duties with regard to the person and estate of the ward, as a guardian appointed by the probate court.

Guardian shall give bond—exception.

SEC. 7. The guardian so appointed shall give the bond prescribed in section seventeen, except that when the testator has ordered or requested in his will that a bond be not given, it shall not be required, unless from a change in the situation or circumstances of the guardian, or for other sufficient cause, the probate court deems it proper to require it.

OF INSANE PERSONS AND SPENDTHRIFTS.

Court may appoint guardians of insane persons.

SEC. 8. The probate court may appoint guardians of insane persons, on the application of a relative or friend of any person, or of the county commissioners of the county in which such person resides, representing to the probate court that such person is insane and incapable of taking care of himself, and praying that a guardian may be appointed.

County commissioners may apply to have guardian of spendthrift appointed.

SEC. 9. When a person by excessive drinking, gaming, idleness or debauchery of any kind so spends, wastes or lessens his estate, as to expose himself or his family to want or suffering, or any place to charge or expense for the support of himself or his family, the county commissioners of the county of which such spendthrift is an inhabitant or resident, or upon which he is or may become chargeable, may present a complaint to the probate court, setting forth the fact and circumstances of the case, and praying to have a guardian appointed.

Notice of application to be given.

SEC. 10. The court shall cause notice of not less than fourteen days to be given to the supposed spendthrift, of the time and place appointed for the hearing; and if after a full hearing, it appears that he comes within the above description, the court shall appoint a guardian of his person and estate.

Copy of complaint and order to be recorded. Contracts, &c., void, when.

SEC. 11. The complainants under the preceding section may cause a copy of the complaint with the order of notice to be filed in the registry of deeds of their county; and if a guardian is appointed upon such complaint, all contracts, except for necessaries, and all gifts, sales or transfers of real or personal estate made by the spendthrift after such filing of the

complaint and order and before the termination of the guardianship, shall be void.

SEC. 12. The guardian of an insane person or spendthrift shall have the care and custody of the person of his ward and the management of all his estate; and shall give the bond prescribed in section seventeen, except that the provisions relating to the education of the ward shall be omitted.

Powers of guardian—shall give bond.

OF PERSONS OUT OF THE STATE.

SEC. 13. When a person liable to be put under guardianship, according to the provisions of this chapter, resides without this state, and has any estate therein, any friend of such person, or any one interested in his estate in expectancy, or otherwise, may apply to the judge of probate of any county in which there is any estate of such absent person, and after such notice to all persons interested as the judge shall order, and a full hearing and examination, a guardian may be appointed for such absent person.

Guardian of absent person appointed, when.

SEC. 14. Such guardian shall have the same powers and duties with respect to any estate of the ward found within this state, and also with respect to the person of the ward, if he comes to reside therein, as are prescribed with respect to other guardians appointed under this chapter.

Powers and duties.

SEC. 15. He shall give the bond prescribed in section seventeen, except that the provisions respecting the inventory, the disposal of the estate, and effects, and the account to be rendered by the guardian, shall be confined to such estate and effects as shall come to his hands in this state, and that the provisions respecting the custody of the ward shall not be applicable unless he comes to reside within the state.

Shall give bond.

SEC. 16. The guardianship first lawfully granted, of any person residing out of this state, shall extend to all the estate of the ward within the same, and exclude the jurisdiction of the probate court in every other county.

Extent of guardianship first granted.

GENERAL PROVISIONS.

SEC. 17. Before appointing any person guardian of a minor, the judge of probate shall require of such person a bond with sureties to be approved by him, and in such sum as he shall order, conditioned as follows:

Conditions of bond.

First. To make a true inventory of all the estate, real personal, of his ward, that shall come to his possession or knowledge, and to return the same into the probate court at such time as the judge shall order.

Second. To dispose of and manage all such estate according to law, and for the best interests of the ward: and faithfully to discharge his trust in relation thereto, and also in relation to the custody, education and maintenance of the ward.

Third. To render an account on oath, of the property, estate, and moneys of the ward in his hands, and all proceeds or interest derived therefrom, and of the management and disposition of the same, within one year after his appointment, and at such other times as the probate court shall direct; and

Fourth. At the expiration of his trust to settle his accounts with the judge of probate, or with the ward, if he is of full age, or his legal representatives, and to pay over and deliver all the estate, moneys, and effects remaining in his hands, or due from him on such settlement, to the persons lawfully entitled thereto.

SEC. 18. Upon the taking of an inventory, the estate and effects comprised therein shall be appraised by three suitable persons to be appointed and sworn, as is required with respect to the inventory of the estate of a deceased person; and every guardian shall account for and dispose of

Appraisal of estate—guardian to account for effects.

the personal estate of the ward, in like manner as is directed with respect to executors and administrators.

Debts, out of what estate paid.

SEC. 19. Every guardian shall pay all just debts due from his ward out of the personal estate, if sufficient, and if not, out of the real estate, upon obtaining license for the sale thereof, and disposing of the same in the manner provided by law. He shall also settle all accounts of the ward, and demand, sue for, and receive all debts due to him, or with the approbation of the judge of probate, compound for the same, and give a discharge to the debtor, on receiving a fair and just dividend of his estate and effects; and he shall appear for and represent his ward in all legal proceedings, unless another person is appointed for that purpose, as guardian or next friend.

Guardian may settle accounts and compound debts.

Powers and duties.

SEC. 20. He shall manage the estate of his ward, frugally and without waste, and apply the income and profits thereof, as far as may be necessary for the comfortable and suitable maintenance and support of the ward and his family, if there is any; and if such income and profits are insufficient for that purpose, the guardian may sell the real estate upon obtaining a license therefor, as provided by law, and shall apply the proceeds of such sale, so far as may be necessary, for the maintenance and support of the ward and his family.

May make partition, when

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SEC. 21. He may, except when he has an interest adverse to that of the ward in the estate to be divided, make partition of the real estate of his ward when lying in common and undivided, either upon petition for partition or otherwise, as fully and in like manner as the ward could do if he was under no disability; and may assign and set out dower in his ward's estate to any widow entitled thereto.

Education of minor defrayed out of his estate in certain cases.

SEC. 22. If a minor who has a father living, has property sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard being had to the situation of the father's family and to all the circumstances of the case, the expenses of the maintenance and education of such child may be defrayed out of his own property, in whole or in part, as shall be deemed reasonable by the probate court; and when necessary, his real estate may be sold for that purpose by the guardian upon obtaining license therefor as provided in other cases of sales by guardians. The charges for such expenses may be allowed in the settlement of the accounts of the guardian.

Personal estate, how disposed of.

SEC. 23. The judges of probate, in their respective counties, on the application of a guardian, or any person interested in the estate of any ward, after such notice to all persons interested therein, as the judges of probate shall direct, may authorize or require the guardian to sell and transfer any stock in the public funds, or in any bank or other corporation, or any other personal estate or effects held by him, as guardian, and to invest the proceeds of such sale, and also any other moneys in his hands, in real estate, or in any other manner that shall be most for the interest of all concerned therein; and the said judges may make such further order and give such directions, as the case may require for managing, investing and disposing of the estate and effects in the hands of the guardian.

When ward removes out of state, guardian may pay over and transfer property.

SEC. 24. When a person under guardianship removes out of this state, his guardian may pay over and transfer the whole or any part of his property to any guardian or trustee appointed by competent authority in the state to which the residence of the ward is removed, upon such terms and in such manner as the probate court upon petition therefor shall decree.

Guardian may resign or be removed, when.

SEC. 25. When a guardian appointed either by the testator or by the judge of probate, becomes insane, or otherwise incapable of discharging

his trust, or evidently unsuitable therefor, the judge of probate, after notice to him and all others interested, may remove him. Upon the request of a guardian the probate court, in its discretion, may allow him to resign his trust. Upon such removal or resignation, and upon the death of a guardian another may be appointed in his stead.

SEC. 26. When a female guardian marries, her husband shall not be guardian in her right, but the marriage shall extinguish her authority, and the other guardian, if there is any, may proceed in discharging the trust. If there is no other guardian the probate court may appoint one, or make such other order in the premises as the case requires.

Marriage of female guardian extinguishes her authority.

SEC. 27. The marriage of a female under guardianship as a minor, shall terminate such guardianship; and the guardian of an insane person or spendthrift may be discharged by the judge of probate, when it appears on the application of the ward, or otherwise, that such guardianship is no longer necessary.

Marriage of female ward, terminates the guardianship.

SEC. 28. The judge of probate may require a new bond to be given by a guardian, whenever he deems it necessary, and may discharge the existing sureties from future responsibility, after due notice given, as such court may direct, when it satisfactorily appears that no injury can result therefrom, to those interested in the estate.

Guardian to give new bond, when

SEC. 29. Upon complaint to the judge of probate, by a guardian, ward, creditor or other person interested in the estate of a ward, or by any person having any prospective interest therein, as heir or otherwise, against any one suspected of having fraudulently concealed, embezzled, or conveyed away any of the money, goods, or effects, or any instrument in writing, belonging to the ward, the judge may cite and examine such suspected person, although he is the guardian, and proceed with him as to such charge, in the same manner as is provided with respect to persons suspected of concealing or embezzling the effects of a deceased person.

Party suspected of embezzlement may be cited before judge of probate and examined.

SEC. 30. Every guardian shall be allowed his reasonable expenses, incurred in the execution of his trust, and such compensation for his services, as the court in which his accounts are settled, deems just and reasonable.

Expenses and compensation of guardians.

CHAPTER LX.

MASTERS, APPRENTICES AND SERVANTS.

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