

# 1889 North Dakota Session Laws.pdf/161



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## CHAPTER 53.

[H. F. 263.]

REGULATING PROCEEDINGS IN PROBATE  
MATTERS.

AN ACT to Amend Sections 171, 172 and 173 of the Probate Code.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. WHEN SALE NECESSARY.] That Section 171 of the Probate Code be amended to read as follows:

"Sec. 171. When a sale of property of the estate is necessary to pay the allowance of the family, or the debts outstanding against a decedent, or the debts, expenses or charges of administration, or legacies, or that such sale is for the best interests of the estate, and the persons interested in the property to be sold, whether it is or is not necessary to pay the debts or family allowance, the executors or administrators may also sell any real as well as personal property of the estate in his hands upon the order of the county court, and an application for the sale of real property may also embrace the sale of personal property."

§ 2. REQUISITES OF PETITION FOR SALE.] That Section 172 of the Probate Code be amended to read as follows:

"Sec. 172. To obtain an order for the sale of real property, he must present a verified petition to the county court, or to the judge thereof, setting forth the amount of personal property that has come into his hands as assets, and how much thereof, if any, remains undisposed of; the debts outstanding against the decedent, as far as can be ascertained or estimated; the amount due upon the family allowance, or that will be due after the same has been in force for one year; the debts, expenses and charges of administration already accrued, and the estimate of what will or may accrue during the administration; the facts showing the sale to be for the best interest of the estate, if the application is made upon that ground; a general description of all the real property, except the homestead, of which the decedent died seized, or in which he had any interest, or in which the estate has acquired any interest, and the condition and value thereof; the names of the legatees and devisees, if any, and the heirs of the decedent, so far as known to the petitioner. If any of the matters here enumerated cannot be ascertained, it must be so stated in the petition, but a failure to set forth the facts showing the sale to be necessary will not invalidate the subsequent proceedings, if the defect be supplied by the proofs at the hearing, and the general facts showing such necessity be stated in the decree."





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