

**OPINION**  
**46-86**

May 21, 1946            (OPINION)

ESTATES OF DECEDENTS

RE: Summary Administration

This will acknowledge your letter of May 17, enclosing a copy of the petition for the probate of the estate of Adolph Hegre. This petition discloses that his only know relatives are Reverend Andrew Hegre, a nephew, and Agatha Hegre Vigeland. The assets shown and listed in the petition are a house located on land owned by Carl Smette in the village of Upham, and set at the value of \$75.00, and cash amounting to \$17.46.

Section 30-1707 of the North Dakota Revised Code of 1943 provides for summary administration of an estate, when the inventory of the estate of such deceased person shows that the value of the estate does not exceed the sum of \$1500.00, and that there is a surviving husband or wife or minor children of the deceased. If the estate is under the value \$1500.00, and there is a surviving husband or wife or minor children, subject to whatever mortgages, liens, or encumbrances may be in effect upon the estate at the time of the death of the testator or intestate, and to the payment of the expenses of the last illness of the decedent, general expenses and expenses of administration. See section 30-1705 of the Revised Code.

Chapter 219 of the 1933 Session Laws, dealing with the summary probate of small estates, now a part of sections 30-2504, 30-2505 and 30-2506 of the North Dakota Revised Code of 1943, does not apply to this estate.

From the facts given in the petition, it would appear that the estate of Adolph Hegre is not subject to being probated under the terms of section 30-1701 of the North Dakota Revised Code of 1943.

It is therefore my opinion that this estate must be probated in the ordinary way. In order to be probated under the summary procedure, there must be a surviving husband or wife or minor children, and the estate must be of a value under fifteen hundred dollars.

NELS G. JOHNSON

Attorney General