

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

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1841.

CHAPTER 111.

OF TESTAMENTARY TRUSTEES.

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| <p>SECT. 1. Of the bonds required, and their condition.</p> <p>2. When bonds may not be required. In such cases settlements to be annual.</p> <p>3. Trustee neglecting to give bonds, considered, as declining the trust.</p> <p>4. When a trustee may resign.</p> <p>5. No person required to accept a trust, as executor, &c. of a former trustee.</p> <p>6. When a trustee may be removed.</p> <p>7. When vacancies may be filled by the judge.</p> | <p>SECT. 8. How the property shall vest in new trustees.</p> <p>9. Judge may order conveyances.</p> <p>10. Of bonds and inventory, as required by the judge.</p> <p>11. Appraisal.</p> <p>12. Courts may authorize the sale or investment of personal property, and the sale or purchase of real estate.</p> <p>13. Chancery powers.</p> <p>14. Bonds to be for the use of all parties interested.</p> |
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SECTION 1. Every person, who shall be appointed a trustee for minors or others, under any last will, excepting such as are exempted by the succeeding sections of this chapter, shall, before entering on the duties of his trust, give bond, with sufficient surety or sureties, to the judge of probate for the county in which the will shall have been proved, and in such sum as the judge shall prescribe, with condition as follows:

Of the bonds required, and their condition. 1821, 51, § 58. 22 Pick. 215.

First. That he will faithfully execute such trust, according to the will of the testator, so far as consistent with law;

Secondly. That he will make a true and perfect inventory of the real estate, goods and chattels, rights and credits of such minors, or others, to be returned into the probate office of such county, at such time as the judge shall order;

Thirdly. That he will render to such judge an account of the income and profits thereof, and of his payments and expenses, once in three years, and oftener, if thereto required by the judge;

Fourthly. That, at the expiration of such trust, he will adjust and settle his accounts with the judge, and will pay and deliver over, all balances and sums of money or other property, that may be due, and give possession of the other estate belonging to such minors and others, with which he may have been entrusted, to the persons, entitled thereto.

SECT. 2. In the following cases, bonds shall not be required of such trustee, unless for special reasons the judge shall determine it to be necessary; but all trustees, not required to give bond, shall settle their account with the judge of probate annually:

When bonds may not be required. 1821, 51, § 58. 9 Pick. 395. 22 Pick. 215.

First. When the testator shall have requested or directed, that such bond should not be required;

In such cases, settlements to be annual.

Secondly. When all the parties interested in the trust fund, if of full age and legal capacity, shall, in writing, signify to the judge of probate their request, that such bond should not be required;

Thirdly. When the trustee, not being before required to give bonds, shall have entered upon the duties of his trust, before the taking effect of the provisions of this chapter.

SECT. 3. Every person, appointed a trustee as aforesaid, who shall neglect to give such bond, within such time, as the judge of

Trustees neglecting to give bonds, considered, as declin-

CHAP. 111. probate shall allow for that purpose, shall be considered, as having declined the trust.

ing the trust.
1821, 51, § 59.
When a trustee
may resign.
1821, 51, § 60.

No person re-
quired to ac-
cept a trust as
executor, &c.
of a former
trustee.

When a trustee
may be remov-
ed.
1821, 59, § 62.

When vacan-
cies may be fill-
ed by the judge.
1821, 59, § 61.
12 Pick. 445.

How the prop-
erty shall vest
in new trustees.
1821, 59, § 61.

Judge may or-
der conveyan-
ces.

Of bonds and
inventory, as
required by the
judge.
1821, 51, § 62.

Appraisal.

Courts may au-
thorize the sale
or investment
of personal
property, and
the sale or pur-
chase of real es-
tate.

SECT. 4. Every such trustee may, upon his own request, be allowed to resign his trust, when it shall appear, to the judge of probate, proper to allow the same.

SECT. 5. No person, succeeding to such trust, as executor or administrator of a former trustee, shall be required to accept or retain the same, against his will.

SECT. 6. When any trustee, appointed either by the testator or the judge of probate, shall become insane, or otherwise incapable of discharging his trust, or evidently unsuitable therefor, the judge may, upon notice to such trustee and all others interested, remove him, and appoint another in his stead.

SECT. 7. When any person, appointed a trustee, shall decline or resign the trust, or shall die, before the objects thereof are accomplished, if no adequate provision is made, by the will, for supplying such vacancy, the judge of probate shall, after notice to all persons interested, appoint a new trustee, to act, alone, or jointly with others, as the case may be.

SECT. 8. Every trustee, appointed by the judge of probate, under the provisions of this chapter, shall have and exercise the same powers, rights and duties, whether as a sole or joint trustee, as if he had been originally appointed by the testator; and the trust estate shall vest in him, in like manner, as it did or would have vested in the trustee, in whose place he is substituted.

SECT. 9. The judge may order such conveyances to be made by the former trustee or his representatives, or by the other remaining trustees, as may be proper, to vest in the trustee, newly appointed, either alone, or jointly with others, the estate and effects, as the case may be.

SECT. 10. Every trustee, appointed by the judge of probate, shall, before entering upon the duties of his trust, give bond, in the manner prescribed in the first section; excepting only, that the judge may dispense with the making and returning of an inventory by any substituted trustee, whenever he shall think such inventory unnecessary; in which case, the condition of the bond shall be altered accordingly. Without the acceptance of such bond by the judge, no right nor authority shall vest in the said trustee.

SECT. 11. In all cases, when an inventory is required to be returned by any trustee, the estate and effects shall be appraised by three suitable persons, to be appointed and sworn, as is prescribed by law, with respect to the estate of a deceased testator or intestate.

SECT. 12. The judges of probate, having jurisdiction of the trust, in their respective counties, and also the supreme judicial court, in any county, may, on the application of the trustee, or of any person interested in the trust estate, after notice to all other persons interested therein, authorize or require the trustee to sell any stock in the public funds, or in any corporation, or any other personal estate or effects, held by him in trust; and to invest the proceeds of such sale, and also any other trust moneys in his hands, in real estate, or in any other manner, that shall be most for the interest of

all concerned therein; they may also authorize the sale of real estate, held as aforesaid, and give such further directions, as the case may require, for managing, investing and disposing of the trust fund, subject to any provisions contained in the will, respecting such fund; and provided, this section shall not restrain the exercise of any powers, given by the terms of the will.

SECT. 13. The said courts, respectively, may hear and determine, in equity, all other matters relating to the trusts mentioned in this chapter. Chancery powers.

SECT. 14. Any bond, given by a trustee, as provided in this chapter, may be put in suit by order of the judge of probate, for the use and benefit of any person interested in the trust estate; and the proceedings in such suit shall be conducted in the manner prescribed in chapter, one hundred and thirteen, with respect to bonds given by administrators. Bonds to be for the use of all parties interested.

CHAPTER 112.

OF SALES OF REAL ESTATE BY EXECUTORS, ADMINISTRATORS, GUARDIANS, AND OTHERS, UNDER SPECIAL LICENSE OF COURT.

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| <p>SECT. 1. When the judges of probate may license sales of real estate.</p> <p>2. Sales to be by auction, unless otherwise ordered.</p> <p>3. Appeals allowed, on such applications.</p> <p>4. Concurrent jurisdiction of supreme judicial, and district court.</p> <p>5. Bonds required.</p> <p>6. Oath.</p> <p>7. Notice previous to granting license.</p> <p>8. Effect of a bond of indemnity by parties interested in the estate.</p> <p>9. Of the notice of sale.</p> <p>10. Certificates of judge of probate necessary in certain cases, on application to the supreme judicial, or district court.</p> <p>11. Petitioner and others may be examined under oath.</p> <p>12. When certificates of the overseers of the poor, necessary.</p> <p>13, 14. Proceedings for sale of estate of persons deceased, or wards, not resident in the state.</p> <p>15. Evidence of appointment of an executor, administrator or guardian, in another state.</p> <p>16. Sales may be adjourned, not exceeding fourteen days.</p> <p>17. Licenses, in force, one year only.</p> <p>18. Limitation of action, or entry, to recover back lands sold under license, &c.</p> | <p>SECT. 19. Evidence of notice of sale, how perpetuated.</p> <p>20. Licenses to sell real estate, at private sale.</p> <p>21. Oath and bond in such cases.</p> <p>22. License, in reference to a particular offer to purchase.</p> <p>23. Jurisdiction of lands in one county, to embrace lands in other counties.</p> <p>24. License to sell, at private sale, to authorize a sale by auction.</p> <p>25. Wife of a ward insane, &c. may join in a sale with his guardian to convey estate, held in her right.</p> <p>26. May also bar her dower in his lands.</p> <p>27. Guardian may contract with her, to invest proceeds of her interest, with the judge's consent.</p> <p>28. Judge of probate to authorize deeds, under contract of a person deceased.</p> <p>29. Licenses, in certain cases, may express what, and in what order, lands may be sold.</p> <p>30. Operation of the deed of a person, authorized by license.</p> <p>31. What estate of deceased persons is subject to be sold by license.</p> <p>32. Surplus proceeds of sale considered as real estate, for purposes of distribution.</p> |
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