

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

CHAPTER 64.**THE APPOINTMENT, POWERS, AND DUTIES OF EXECUTORS AND ADMINISTRATORS.****WILLS AND EXECUTORS.**

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WILLS AND EXECUTORS.

Duty of person
having custody
of a will.
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neglect.
5 Greenl. 490.
6 Greenl. 274.
R. S., c. 106,
§ 4.

SEC. 1. Every person having the custody of any will, shall, within thirty days after notice of the testator's death, deliver it into the probate court, which has jurisdiction thereof, or to the executors therein named; and if, without any reasonable cause, he neglects so to do, after being duly cited for that purpose by the judge of probate, he may be committed to the jail of the county by the judge's warrant, there to be kept in close custody until he delivers the will as above directed; and he shall also be liable to the action of any party for the damage which he sustains by such neglect.

SEC. 2. When a will is offered for probate to the judge, and any of the witnesses live out of the state, or more than thirty miles distant, or by age or indisposition of body are unable to attend court, the depositions of such witnesses, taken before any magistrate authorized by commission from such judge, shall be competent evidence in the absence of such witnesses.

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When depositions of witnesses to a will may be taken.
R. S., c. 106, § 5.

SEC. 3. When it clearly appears to the judge by the written consent of the heirs at law or otherwise, that there is no objection to the probate of any will, he may decree probate thereof upon the testimony of one or more of the three subscribing witnesses required by law, who can substantiate all the requisite facts.

When a will may be proved by witnesses.
R. S., c. 106, § 6.

SEC. 4. When any will is duly proved and allowed, the judge of probate may issue letters testamentary thereon to the executor named therein, if he is legally competent, accepts the trust, and gives bond to discharge the same; but if he refuses to accept on being duly cited for that purpose, or if he neglects for twenty days after probate of the will to give such bond, the judge may grant such letters to the other executors, if there are any capable and willing to accept the trust.

When letters testamentary may be granted.
R. S., c. 106, § 7, 11.

SEC. 5. Every executor before entering on the execution of his trust shall give bond, with sufficient sureties resident in this state, in such sum as the judge of probate orders, payable to him or his successors, with condition, in substance, as follows:

Executors to give bonds. Conditions.
R. S., c. 106, § 8.

First.—To make and return to the probate court, within three months, a true inventory of all the real estate, and all the goods, chattels, rights and credits of the testator, which are by law to be administered, and which come to his possession or knowledge.

Second.—To administer, according to law and to the will of the testator, all his goods, chattels, rights and credits.

Third.—To render, upon oath, a just and true account of his administration within one year, and at any other times, when required by the judge of probate.

Fourth.—To account, in case the estate should be represented insolvent, for three times the amount of any injury done to the real estate of the deceased by him, or with his consent, between the representation of insolvency and the sale of such real estate for the payment of debts, by waste or trespass committed on any building thereon, or on any trees standing and growing thereon, except as necessary for repairs or fuel for the family of the deceased; or by waste or trespass of any other kind, and for such damages as he recovers for the like waste or trespass committed thereon.

SEC. 6. If such executor is a residuary legatee, the condition of his bond, instead of the preceding, shall be to return an inventory as aforesaid, and to pay all the debts and legacies of the testator, unless the estate from some unexpected event should prove insufficient therefor.

Conditions, if executor is residuary legatee.
R. S., c. 106, § 9.

SEC. 7. When two or more persons are named executors in any will, none shall act as such, or intermeddle, except those

Executors not to act without giving bond.

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Majority have power to act. R. S., c. 106, § 10. 1849, c. 94, § 1.

who give bonds as aforesaid; but a majority of those who do give bonds, unless it is otherwise prescribed in such will, may do all the acts in the execution of such trust, which all could do, and all acts so done are as valid in law as if all had agreed thereto; and a suit may be maintained against the executors, so acting, on their bond, for the benefit of any person aggrieved by their acts, without joining the other parties to such bond.

FOREIGN WILLS.

Foreign wills may be allowed. 4 Greenl. 134. R. S., c. 106, § 14.

Copy of such will to be presented to judge.

Time of hearing. 4 Greenl. 134. R. S., c. 106, § 15.

It may then be filed and recorded. Must be executed in conformity with laws of this state.

12 Maine, 127. R. S., c. 106, § 16.

Letters testamentary may then be granted and estate settled. R. S., c. 106, § 17. 1856, c. 242.

SEC. 8. Any will proved and allowed in any other of the United States, or in any foreign country, according to the laws thereof, may be allowed and recorded in this state in the manner and for the purposes hereinafter mentioned.

SEC. 9. A copy of the will and the probate thereof, duly authenticated, shall be produced by the executor, or by any person interested therein, to the judge of probate in any county in which there is estate real or personal on which the will can operate; whereupon the judge shall assign a time and place of hearing the case, and cause notice thereof to all persons interested to be given in some public newspaper three weeks successively; the first publication to be thirty days at least before the time so assigned.

SEC. 10. If, on hearing the case, it appears to the judge that the instrument ought to be allowed in this state, as the last will and testament of the deceased, he shall order the copy to be filed and recorded; and it then has the same force and effect, as if it had been originally proved and allowed in the same court in the usual manner; but nothing herein shall make valid any will, that is not executed in the manner prescribed by the laws of this state, or give any operation and effect to the will of an alien, different from what it would have if originally proved and allowed in this state.

SEC. 11. After allowing and recording any will as aforesaid, the judge of probate may grant letters testamentary, or of administration with the will annexed thereon, and proceed in the settlement of the estate found in this state, in the manner provided by the laws of this state with respect to the estates of persons who were inhabitants of any other state or country; and the letters thus granted shall extend to all the estate of the deceased within this state, and exclude the jurisdiction of the probate court in every other county. Such administration may be granted in any county in which lands of the testator, subject to the operation of his will, remain undisposed of after the lapse of more than twenty years from his decease.

NUNCUPATIVE WILLS.

When nuncupative wills may be approved. Notice thereof. R. S., c. 106, § 18.

SEC. 12. No letters testamentary or probate of any nuncupative will, shall pass the seal of any court of probate, until fourteen days after the decease of the testator; nor shall such will be approved and allowed at any time, unless due notice is given

to all persons interested specifying that the will to be proved is a nuncupative will. CHAP. 64.

ADMINISTRATORS.

SEC. 13. Upon the decease of any person intestate, the judge of probate having jurisdiction shall grant administration of such intestate's goods or estate to the widow, husband, next of kin, or husband of the daughter of the deceased, or to two or more of them, as he thinks fit, if the applicant is over the age of twenty-one years and in other respects suitably qualified for the trust; but if they are unsuitable, or being residents in the county and cited before the judge for the purpose, neglect or refuse to take out letters of administration, he may, after thirty days from the decease of the intestate, commit administration on such estate to one or more of the principal creditors, or to such other persons as he deems suitable.

To whom administration may be granted.
22 Maine, 549.
R. S., c. 106,
§ 1, 2.

SEC. 14. Every administrator, before entering on the execution of his trust, shall give bond with good and sufficient sureties resident within this state, in such sum as the judge orders, payable to him or his successors, with condition, in substance, as follows:

Administrators to give bonds.
Conditions.
R. S., c. 106,
§ 3.

First. — To make and return into the probate court, within three months, a true inventory of all the real estate and all the goods, chattels, rights and credits of the deceased, which come into his possession or knowledge.

Second. — To administer according to law all the goods, chattels, rights and credits of the deceased.

Third. — To render, upon oath, a true account of his administration within one year, and at any other times when required by the judge of probate.

Fourth. — To pay and deliver any balance, or any goods and chattels, rights and credits, remaining in his hands upon the settlement of his accounts, to such persons as the judge of probate directs.

Fifth. — To deliver the letters of administration into the probate court in case any will of the deceased is thereafter duly proved and allowed.

Sixth. — To account, in case the estate should be represented insolvent, in the manner provided for executors in the fourth specification of section five of this chapter.

ADMINISTRATORS WITH THE WILL ANNEXED.

SEC. 15. If there is no person that the judge can appoint executor of any will, according to the provisions of section four, he may commit administration of the estate with the will annexed to such person as he would be authorized to appoint if the deceased had died intestate; and when an executor is under twenty-one years of age at the time of the probate of the will, administration may be granted with the will annexed during the minority of such executor, unless there is another executor who accepts the trust; in which case, the estate shall be administered

Administrators with the will annexed may be appointed, &c.
R. S., c. 106,
§ 11, 12.

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by such other executor until the minor arrives at full age, when he may be admitted as joint executor with the former upon giving bond as before provided.

Also when an executor or administrator is removed or resignation accepted, &c.
R. S., c. 106, § 34.
1849, c. 94, § 2.
1852, c. 256, § 1, 2, 3.

SEC. 16. When an executor or administrator, residing out of the state, after being duly cited by the judge of probate, neglects to render his accounts and settle the estate according to law; or when any executor or administrator, joint or sole, becomes insane or otherwise unsuitable to perform the trust, refuses or neglects to do so, or mismanages the estate, the judge of probate may remove him; and he may accept the resignation of any joint or sole executor or administrator, when he is satisfied, after fourteen days notice to those interested in the estate and a hearing, that there is reasonable cause therefor, and that it will not be detrimental to the estate or to those interested therein; and in either case, if there is no other executor or administrator to discharge the trust, the judge may commit administration of the estate not already administered with the will annexed or otherwise, as the case requires, to such persons as he thinks fit, as if the one resigned or removed were dead; and such administrator shall have the same powers and be liable to the same obligations as other administrators.

Power of female executor or administrator ceases on marriage, &c.
R. S., c. 106, § 35.

SEC. 17. When an unmarried woman, who is joint or sole executor or administrator, marries, her husband shall not exercise such trust in her right, but her authority is thereby extinguished; and the other executor or administrator, if any, may proceed in discharging the trust, as if she was dead. If there is no other, administration with the will annexed or otherwise may be granted, as provided in the preceding section.

Also on death of sole or surviving executor.
R. S., c. 106, § 36.

SEC. 18. The executor of an executor shall have no authority as such to administer the estate of the first testator; but on the death of the sole or surviving executor of any last will, administration of said estate not already administered may be granted with the will annexed to such person as the judge of probate thinks fit.

Administrators, &c., to give bonds.
R. S., c. 106, § 13.

SEC. 19. Every person, who is appointed administrator with the will annexed, shall, before entering upon the execution of his trust, give bond to the judge of probate in like manner and with like condition as is required of an executor.

PUBLIC ADMINISTRATORS.

Appointment, duty, and bonds of public administrators.
R. S., c. 107, § 1, 2, 3, 9.

SEC. 20. The governor with advice of council, when a vacancy occurs in any county, shall appoint a suitable person to be public administrator therein, who shall take out letters of administration and faithfully administer on the estate of any person who dies intestate in such county, not known to have in this state any heirs or kindred who can lawfully inherit such estate; and account in like manner, and give bonds to the judge of probate with like conditions, as in cases of ordinary administration, and with the further condition, in substance, that he will comply with the provisions of the following section.

When judge may revoke

SEC. 21. If, before the estate of such deceased is fully settled, any last will and testament of his is produced and duly

proved, or if any of his heirs, next of kin, or his widow makes application in writing to the judge of probate having jurisdiction of the estate, and claims the right to administer thereon, or to have some other suitable person appointed to that trust, the judge shall revoke the former administration and grant letters testamentary, or new administration, as the case requires; and thereupon the public administrator shall surrender his letters of administration to the judge of probate, settle his account, and deliver to his successor all sums of money in his hands, and all the goods, chattels, rights and credits of said deceased, not administered upon.

SEC. 22. The judge of probate may grant license to a public administrator to sell the real estate of such deceased for the payment of debts and incidental charges, as to other administrators; and also, after three years from the granting of administration, to sell any or all of such real estate, at public or private sale, although not needed for that purpose, if he is satisfied that it would be for the interest of all concerned, and that no heir, or other persons, except creditors, directly interested in such estate, can be found in the United States.

SEC. 23. In such cases, the judge of probate and such administrator shall observe all the provisions of law as to bonds, notices, oaths and other requirements as in the sale of real estate by other administrators.

SEC. 24. When there is, in the hands of such public administrator, an amount of money, more than is necessary for the payment of the deceased's debts and other purposes of administration, he shall be required by the judge of probate to deposit it with the treasurer of state, who shall receive it; and the state shall be responsible for the principal thereof, for the benefit of those who may lawfully claim it; and the governor and council, on application and proof, may order the treasurer to pay it over.

SEC. 25. In such case, the judge of probate shall give notice to the treasurer of state of such amount, and from what estate receivable; and if said administrator neglects, for three months after the order of the judge therefor, to deposit the same, the treasurer shall cause his probate bond to be put in suit for the recovery thereof.

SEC. 26. If the heirs, widow, or next of kin, to any such intestate, or other lawful claimants, do not demand such money within twenty years from the time of its deposit, it shall be forfeited to the state.

SPECIAL ADMINISTRATORS.

SEC. 27. When from any cause there is a delay in granting letters testamentary or of administration, the judge of probate may appoint a special administrator, who shall, notwithstanding there is an appeal, proceed in the execution of his duties until it is otherwise ordered by the supreme court of probate; and he shall give bond, like other administrators, conditioned that he will make and return into the probate court within three months

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their powers,
&c.

R. S., c. 107,
§ 7, 8.

In what cases
judge may
license them
to sell real
estate.

R. S., c. 107,
§ 10, 11.

Proceedings in
such sales.

R. S., c. 107,
§ 12.

They shall pay
balance to
state treasurer,
&c.

R. S., c. 107,
§ 4, 12.

Judge to notify
treasurer of
such balance,
&c.

R. S., c. 107,
§ 5.

If not claimed
in twenty
years, forfeited
to state.

R. S., c. 107,
§ 6.

In what cases
special admin-
istrators may
be appointed,
&c.

R. S., c. 107,
§ 13, 14.
1841, § 16.

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a true inventory of all the goods, chattels, rights and credits of the deceased, which come to his possession or knowledge; and that he will truly account, on oath, for them and deliver them to the person lawfully authorized to receive them.

Duty to collect effects of deceased, &c.
R. S., c. 107, § 15.
1857, c. 26.

SEC. 28. He shall collect all the goods, chattels, and debts of the deceased, control and cause to be improved all his real estate, and collect the rents and profits thereof, and preserve them for the executor or administrator thereafter appointed; and for that purpose may maintain suits, sell such perishable and other goods as the judge orders, and pay to the widow, if any, and if not, to the guardian of the children under fourteen years of age, such sum for their temporary support, as the judge orders, having regard to the state and amount of the property. If the estate is solvent, such sum shall, on final settlement, be deducted from the share of the widow or children, but if insolvent, shall be considered by the judge in his allowance to them.

His compensation. When his powers cease, &c.
R. S., c. 107, § 15, 16.

SEC. 29. Such administrator shall be allowed such compensation for his services, as the judge thinks reasonable, not exceeding that allowed to other administrators; and on the granting of letters testamentary or of administration, his powers shall cease, and he shall forthwith deliver all the goods, chattels, money, and effects of said deceased in his hands, and the executor or administrator may prosecute any suit commenced by the special administrator, as if it had been commenced by himself.

Not liable to action by creditor without decree of judge, &c.
R. S., c. 107, § 17.
1843, c. 11.

SEC. 30. No special administrator shall be liable to an action by any creditor of the deceased without an application by such creditor to the judge of probate, and his decree authorizing it; and the limitation of all suits against the estate shall begin to run from the time of granting letters testamentary or of administration in the usual form, as if such special administration had not been granted.

Notwithstanding appeal from probate of will, executor may proceed to settle estate, &c.
1852, c. 244, § 1, 2.

SEC. 31. When a will has been proved and allowed by the judge of probate and an appeal made therefrom, he may, instead of appointing a special administrator as aforesaid, grant letters testamentary to the executor named in such will, who shall give bond and proceed in the settlement of such estate, as if no appeal had been made; and, after the payment of the just debts and charges of administration, he shall retain in his hands all the remaining avails of such estate to await the result of the case in the supreme court of probate, and then pay the same, under the direction of the judge of probate, to the parties legally entitled thereto.

EXECUTORS IN THEIR OWN WRONG.

Who are executors in their own wrong, and their liability.
15 Maine, 116.
R. S., c. 107, § 18, 19.

SEC. 32. If any person sells or embezzles any of the goods or effects of a deceased person liable to administration, before taking out letters testamentary or of administration thereon, and giving bond accordingly, he shall be liable to the actions of the creditors and other persons aggrieved as an executor in his own wrong, and also to the rightful executor or administrator for the full value of the goods or effects of the deceased taken by him, and for all damages caused by his acts to said estate; and he

shall not be allowed to retain any part of the goods or effects, except for such funeral expenses, debts of the deceased or other charges actually paid by him, as the rightful executor or administrator would have to pay.

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PROVISIONS RELATING TO BOTH EXECUTORS AND ADMINISTRATORS.

SEC. 33. Every executor or administrator, within three months after giving bond for the discharge of his trust, shall cause notice of his appointment to be posted up in two or more public places, to be specified by the judge, in the town where the deceased last dwelt, if in this state, and such further notice as the judge in writing directs.

Notice of appointment by executors and administrators.
R. S., c. 106, § 19.

SEC. 34. If the deceased was not an inhabitant or resident in this state at the time of his decease, such notice shall be given by publishing in such newspaper or in such other mode as the judge directs.

Notice when deceased lived out of state.
R. S., c. 106, § 20.

SEC. 35. An affidavit of the executor or administrator, or of the person employed by him to give such notice, made before the judge of probate or any justice of the peace, and filed and recorded with a copy of the notice in the probate court within one year after giving bond as aforesaid, shall be evidence of the time, place, and manner, in which the notice was given.

Notice proved by affidavit filed and recorded.
R. S., c. 106, § 21.

SEC. 36. The party required to publish any notice ordered by the judge of probate to be given in a newspaper, may select the paper therefor, unless the judge should deem such paper unsuitable from its want of circulation or other substantial reason.

Party required to publish notice may select newspaper.
1850, c. 163, § 1.

SEC. 37. Every executor or administrator within three months after his appointment, or within such further time, not exceeding three months, as the judge allows, shall make and return upon oath into the probate court a true inventory of the real estate and of all the goods, chattels, rights and credits of the deceased, which are by law to be administered and which come to his possession or knowledge; if he lives more than ten miles from court, the oath may be administered by a justice of the peace.

Inventory to be returned in three months.
R. S., c. 106, § 22.
1857, c. 20, § 1.

SEC. 38. The real estate, goods and chattels, comprised in the inventory, shall be appraised by three disinterested persons appointed by the judge of probate and duly sworn; and when any part of such estate is in another county, the judge may appoint three appraisers for such county to return an inventory thereof, who shall be sworn.

Estates must be appraised, &c.
R. S. c. 106, § 23.

SEC. 39. Such of the credits of the deceased, and rights to personal property not in possession, as the appraisers judge to be available as assets, they shall enumerate in a schedule part of said inventory, with the names of the debtors or parties obligated, the sums supposed to be due thereon, and the nature of the rights aforesaid, whether absolute or conditional; and state, in one general sum at the foot of each schedule, such amount as in their judgment may be realized from the same, exclusive of expenses and risk of settlement or collection.

How choses in action shall be appraised.
R. S., c. 106, § 24.

SEC. 40. The judge of probate at any time afterward, when any estate or effects, rights, or credits come to the knowledge or

Additional inventories may be required.

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R. S., c. 106,
§ 25.

What may be
omitted in
inventory.
R. S., c. 106,
§ 26.
1844, c. 114, § 1.

possession of any executor or administrator, may require of him an additional inventory; and appraisers in like manner shall be appointed and sworn; and return shall be made within the time directed by the judge in his warrant.

SEC. 41. The following articles shall be omitted in making the inventory, and shall not be administered upon as assets:

First. — All the articles of apparel or ornament of the widow according to the degree and estate of her husband, and the apparel and school books of minor children of the deceased.

Second. — The wearing apparel of the deceased, not exceeding one hundred dollars in value, provided that before the return of the inventory such executor or administrator has distributed the same to the widow and minor children of the deceased, which he is authorized to do, and returns to the judge a certificate of such distribution from the widow or the children's next of kin, who are of age.

Third. — Such provisions and other articles, not exceeding fifty dollars in value, as have necessarily been consumed in the family of the deceased before the appraisal of such estate.

Fourth. — Any sum of money becoming due on the death of the deceased from an insurance on his life effected by him, after deducting the amount of premium paid therefor within three years, with interest, provided such deceased left a widow or issue, but such sum shall be disposed of as provided by section ten, chapter seventy-five.

When additional bonds may be required.

R. S., c. 106,
§ 27.

SEC. 42. If, after the return of any inventory, or in the progress of the settlement of any estate, the judge finds that the bonds given by any executor or administrator are too small in amount, or insecure for want of responsible sureties, he may require additional or larger bonds, or other sureties; and if said executor or administrator does not furnish the same, his authority may be revoked and some other person appointed in his place.

When sale of personal estate may be ordered.

R. S., c. 106,
§ 28.
1857, c. 37.

SEC. 43. The judge of probate, when he deems it necessary for the speedy payment of the debts of the deceased, or for the benefit of all parties interested, that all or any of the goods and chattels, rights and credits, named in the inventory and not distributed, should be sold, or that any pews or interest in pews in a meetinghouse, belonging to the estate, should be sold as goods and chattels, may order either a public or private sale thereof in the manner directed by him; and the executor or administrator shall account for the same as sold; saving the legal rights of persons to whom specific legacies are bequeathed, and those of the executor or administrator under the provisions of the succeeding section.

For what executors and administrators shall account, &c.
R. S., c. 106,
§ 29.

SEC. 44. Every executor or administrator shall be held to account for all the goods and effects named in the inventory, except credits, rights to personal property not in possession, and such articles as are the subject of specific legacies, at the appraisal, unless within three months after the return of the inventory, he signifies in writing to the judge his election to the contrary, or unless the judge, on the application of some party interested, has, before election, ordered a sale thereof; but for

special reasons the judge may allow him the further term of six months to make such election.

SEC. 45. When any debtor of a deceased person is unable to pay all his debts, the executor or administrator, with the approbation of the judge of probate, may compound with such debtor and give him a discharge on receiving a fair proportion of the same.

When debts due deceased may be compounded.

26 Maine, 531. R. S., c. 106, § 33.

SEC. 46. When any executor or administrator neglects or unreasonably delays to raise money out of the estate under his charge, or to pay the same where due, and thereby subjects said estate to be taken in execution, he shall be deemed guilty of waste and unfaithful administration.

Executor or administrator neglecting to pay debts, guilty of waste. R. S., c. 106, § 39.

SEC. 47. Every executor or administrator shall render his accounts agreeably to the condition of his bond; and the judge of probate may require him to account, when he deems it necessary; but no such account shall be settled without reasonable notice. On the examination of such account, the accountant may be interrogated under oath in relation to the same, and such record of his answers made, as the judge requires.

How often accounts shall be settled, &c. 18 Maine, 55. R. S., c. 106, § 40.

SEC. 48. Every executor or administrator shall be chargeable in his account with all goods, chattels, rights, and credits of the deceased, which come to his hands and are by law to be administered, whether included in the inventory or not; with all the proceeds of real estate sold for the payment of debts, legacies, and incidental expenses, and with all the interest, profit, and income, that in any way come to his hands in his said capacity from any estate of the deceased.

Chargeable with property in their hands, &c.

R. S., c. 106, § 41.

SEC. 49. If any part of the real estate is used or occupied by the executor or administrator, he shall account for the income thereof to the devisees or heirs in the manner ordered by the judge of probate, with the assent of the accountant, and of other parties present at the settlement of his account; and if the parties do not agree on the sum to be allowed, it shall be determined by three disinterested persons, appointed for that purpose by the judge of probate, whose award, accepted by the judge, shall be final.

Income of real estate, how to be accounted for.

R. S., c. 106, § 42.

SEC. 50. Any executor or administrator may insure, at the expense of the estate, any property of the deceased that may become assets in his hands, or which he holds in trust by the provisions of a will; and the judge may allow him, in the settlement of his account, such per centage on the amount of assets administered by him, as he deems just and reasonable.

Property of deceased may be insured. Judge may allow for administering. 1850, c. 185.

SEC. 51. No private claim of any executor or administrator, against the estate under his charge, shall be allowed in his account, unless particularly stated in writing, and, if such claim is disputed by a person interested, it may be submitted to referees agreed upon in writing by the interested parties present, or their agents or guardians; and their written report, made pursuant to the submission, the judge may accept, or recommit, and decree accordingly.

Claims of executor or administrator not allowed unless in writing. May be referred.

R. S., c. 106, § 43.

SEC. 52. When there is more than one executor or administrator, and either of them is removed, or his resignation accept-

When one executor or administrator

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is removed or resigns, &c.
R. S., c. 106,
§ 37.

Chancery remedies between co-executors and co-administrators.

R. S., c. 106,
§ 38.

Previous acts of removed executors or administrators valid.

R. S., c. 106,
§ 44.

Judge may cite persons suspected of embezzlement and examine under oath.

7 Greenl. 467.
R. S., c. 106,
§ 30.

He may cite persons entrusted with any estate of deceased, &c.

R. S., c. 106,
§ 31.

Penalty for refusing in both cases.

R. S., c. 106,
§ 32.

ed by the judge of probate, the others may proceed to discharge the trust reposed in them, and may bring actions of account against him and recover, by any proper legal process, such effects and assets as remain in his hands unadministered. Like actions or process may be brought by one executor or administrator against another, when the latter retains an undue proportion of the estate under their charge, and refuses either to account to the other, or pay the debts, legacies, or other charges on such estate, or where the aggrieved executor is a residuary legatee.

SEC. 53. The supreme judicial court may hear and determine in equity all disputes and controversies between co-executors and co-administrators, and between their respective legal representatives, in all cases, where there is not a plain, adequate, and complete remedy at law; and in such case, the court shall have the same power and may proceed in like manner, as is provided in cases between co-partners.

SEC. 54. When letters of administration are revoked, or an executor or administrator is removed, all previous sales of real or personal estate, made in a legal manner by him and with good faith on the part of the purchaser, and all other acts, in due course of administration, done by him in good faith, shall remain valid and effectual, and he shall be accountable in the same manner as if he had not been removed.

EMBEZZLEMENT OF THE PROPERTY OF DECEASED PERSONS.

SEC. 55. Upon complaint made to the judge of probate by an executor, administrator, heir, legatee, creditor or person interested in the estate of a person deceased, against any one suspected of having concealed, embezzled, or conveyed away any of the money, goods, or effects of the deceased, he may cite such suspected person to appear before him to be examined on oath in relation thereto.

SEC. 56. Upon complaint of any such party, that a person entrusted by an executor or administrator with any part of such estate, refuses to render to him a full account thereof when required, the judge of probate may cite such person to appear before him and to render a full account under oath of any money, goods, chattels, bonds, accounts or other papers belonging to such estate, taken into his custody, and of his doings in relation thereto.

SEC. 57. If any person, duly cited as aforesaid, refuses to appear and submit to such examination, or to answer all lawful interrogatories, the judge may commit him to the jail of the county, there to remain until he submit to the order of the court, be discharged by the complainant, or by order of the supreme judicial court.