

# MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

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BY THE AUTHORITY OF THE LEGISLATURE.



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of dower.  
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—process, if  
not paid.

Fees of reg-  
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estates.  
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disclosures.  
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probate  
proceedings,  
defined.  
1883, c. 170, § 1.

Parties may  
select  
newspaper  
for notices.  
1883, c. 170, § 2.

by the parties interested, in proportion to their interests; but when such expenses accrue prior to the closing of the final account of any executor or administrator of the deceased owner of such real estate, having in his hands sufficient personal assets for the purpose, the judge may order him to pay such expenses, and allow the same in his account, after due notice and hearing thereon. In case of neglect or refusal of any person liable to pay such expenses, the judge may issue a warrant of distress against such delinquent for the amount due from him, and costs of process.

SEC. 35. When administration is granted on the estate of a person not a resident of the state, or the will of such person is proved, or administration is granted to a public administrator, or a guardian is appointed for a non-resident minor, the register shall have a reasonable compensation, to be fixed by the judge, for entering and filing the orders and decrees, and for making the necessary records, to be paid by the executor, administrator or guardian, and allowed to him in his account.

SEC. 36. The judge shall have a reasonable compensation for hearing and reducing to writing questions and answers of any party accused of concealing or embezzling property belonging to an estate, or person under guardianship, to be paid by the person requesting the examination.

SEC. 37. Each county shall provide necessary printed blanks and record books for its probate courts.

#### NOTICES.

SEC. 38. In laws relating to probate courts and proceedings, the words "public notice" denote notice published three weeks successively in a newspaper published in the county, or, if none, in the state paper; the words "personal notice" denote service by a copy given in hand or left at the place of last and usual abode, seven days at least before the time of hearing; and the words "due notice" denote public or personal notice, at the discretion of the judge.

SEC. 39. Notices to be published in a newspaper, shall be published in such paper published in the county as the party required to publish it selects, unless the judge deems such paper unsuitable for want of circulation or other substantial reason.

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## CHAPTER 64.

### APPOINTMENT, POWERS AND DUTIES OF EXECUTORS AND ADMINSTRATORS.

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- SEC. 67. Persons suspected of embezzlement may be cited and examined. Limitation.  
 68. Persons intrusted with estate of deceased may be cited to account.  
 69. Penalties for refusal in either case.

## LIMITATIONS.

Administration shall not be granted, nor will proved, unless property amounts to twenty dollars.  
 R.S., c. 64, § 1.  
 22 Me., 553.  
 52 Me., 196.  
 63 Me., 379.

—nor after twenty years; exception.

SEC. 1. No administration shall be granted on the estate of any intestate deceased person, unless it appears to the judge that he left personal estate to the amount of at least twenty dollars, or owed debts to that amount, and left real estate of that value; and when no administration is granted for want of such estate, the personal property of the deceased becomes the property of the widow, or, if none, of the next of kin, who are not, in such case, chargeable as executors in their own wrong. After twenty years from the death of any person, no probate of his last will, or administration on his estate shall be originally granted, unless it appears that there are moneys due to said estate from the United States; but this does not apply to foreign wills previously proved and allowed in another state or country.

## WILLS AND EXECUTORS.

Wills may be deposited in the registry of probate.  
 R.S., c. 64, § 2.  
 —how to be indorsed, and when and to whom to be delivered.

—after death of testator, proceedings.

SEC. 2. A will may be deposited for safe keeping in the registry of probate in the county where the testator lives; and the register, on being paid one dollar, shall receive and keep it, and give a certificate of the deposit thereof. Such will shall be inclosed in a sealed wrapper, indorsed with the name and residence of the testator, and the date when deposited, and may have indorsed thereon the name of any person to whom it is to be delivered after the death of the testator, and shall not be opened nor read, until delivered to the testator, or to some person authorized to receive it by a written order signed by the testator and attested by one witness, and the register may require the person presenting the same to make oath that it is genuine. After the testator's death the will shall be delivered to the person, if any, entitled by the indorsement on the wrapper to receive it; or, if not demanded before the next probate court

thereafter, it may then be publicly opened and retained in the probate office until offered for probate; but, if the jurisdiction of the estate belongs in another court, it shall be delivered to the executors, or other persons entitled to its custody, to be presented for probate in such other court.

SEC. 3. Whoever has the custody of a will, shall, after the testator's death, deliver it into the probate court having jurisdiction thereof, or to the executor therein named; and any executor, having such will in his custody, shall file it in such court. If such executor or other person, having been duly cited for that purpose, neglects so to do, without reasonable cause, for thirty days after notice of the testator's death, he may be committed to jail by the judge's warrant, there to be kept in close custody, until he so delivers the will, or is released by the judge or otherwise by order of law; and he is also liable to any party for the damage which he has sustained by such neglect.

Duty of executors and others having custody of wills.  
R.S., c. 64, § 3.  
5 Me., 493.  
6 Me., 276.  
52 Me., 172.  
—penalty for neglect.

SEC. 4. When any of the witnesses to a will offered for probate live out of the state, or more than thirty miles distant, or, by age or indisposition of body are unable to attend court, their depositions, taken before a magistrate authorized by commission from the judge, shall be competent evidence in the absence of such witnesses.

When witnesses are distant or unable to attend, depositions may be taken.  
R.S., c. 64, § 4.  
46 Me., 247.  
If no objection to a will, one witness or one deposition only is required.  
R.S., c. 64, § 5.

SEC. 5. When it clearly appears to the judge by the written consent of the heirs at law or otherwise, that there is no objection thereto, he may decree the probate of any will upon the testimony of one or more of the three subscribing witnesses required by law, who can substantiate all the requisite facts; or, in the cases described in the preceding section, upon the depositions of one or more of them, substantiating the facts.

SEC. 6. When a will is 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 when required; 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 so to give 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. 64, § 6.  
See § 20.  
46 Me., 237,  
248.

SEC. 7. When the last will of any deceased person, who had his domicile in the state at the time of his death, is lost, destroyed, suppressed or carried out of the state, and cannot be obtained after reasonable diligence, its execution and contents may be proved by a copy and by the testimony of the subscribing witnesses thereto, or by any other evidence competent to prove the execution and contents of a will, and upon proof of the continued existence of such lost will unrevoked up to the time of the testator's death, letters testamentary shall be granted as on the last will of the deceased, the same as if the original had been produced and proved.

Wills lost or carried out of the state, how to be proved.  
R.S., c. 64, § 7.  
73 Me., 603.

SEC. 8. Letters testamentary may issue, or sales of real estate may be made under the provisions of a will, without the executor giving bond, or by his giving one in a specified sum, when the will so provides; but when it appears necessary or proper, the judge, on application of parties interested, may require him to give bond as in other cases.

Will may prescribe what bond, if any, executor shall give.  
1876, c. 81.  
—proviso.

## CHAP. 64.

Bond of  
executor.  
R.S., c. 64, § 9.  
46 Me., 248.  
54 Me., 456.  
56 Me., 301.  
60 Me., 416.  
—conditions.

SEC. 9. Every executor before entering on the execution of his trust shall give bond, except when otherwise provided in the will, with sufficient sureties resident in the state, in such sum as the judge orders, payable to him or his successors, conditioned, in substance, as follows:

I.—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.

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

III.—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.

IV.—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 such representation 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.

Bond, if  
executor is  
residuary  
legatee.  
R.S., c. 64, § 10.  
67 Me., 122.

SEC. 10. 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.

What execu-  
tors may act:  
powers of  
majority.  
R.S., c. 64, § 11.  
54 Me., 456.

SEC. 11. When two or more persons are named executors in any will, and are not released thereby from giving bonds, none shall act as such, or intermeddle, except those who give bonds as aforesaid; but a majority of those legally qualified, unless it is otherwise prescribed therein, 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.

## WILLS MADE IN OTHER STATES OR COUNTRIES.

Wills made in  
other states  
or countries,  
when to be  
proved and  
allowed here.  
R.S., c. 64, § 12.

SEC. 12. Any will executed in another state or country, according to the laws thereof, may be presented for probate in this state, in the county where the testator resided at the time of his death, and may be proved and allowed, and the estate of the testator settled, as in case of wills executed in this state.

Wills proved  
in other  
states or  
countries may  
be allowed in  
this state.  
R.S., c. 64, § 13.  
4 Me., 138.

SEC. 13. A will proved and allowed in another state or country, according to the laws thereof, may be allowed and recorded in this state in the manner and for the purposes hereinafter mentioned. A copy of the will and the probate thereof, duly authenticated, shall be produced by the executor, or by any person interested, 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 for hearing,

—proof, no-  
tice, hearing  
and decree.

and cause public notice thereof to be given, the first publication to be thirty days at least before the time so assigned. After such hearing, if the judge considers that the instrument should be allowed in this state as the will of the deceased, he shall order the copy to be filed and recorded.

SEC. 14. Such will shall then have the same force as if it had been originally proved and allowed in the same court in the usual manner; but nothing herein shall give any operation and effect to the will of an alien different from what it would have had, if originally proved and allowed in this state.

SEC. 15. 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 its laws 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 for more than twenty years from his decease.

CHAP. 64.

Validity of such wills, established. 1874, c. 169, § 1. 12 Me., 131.

Letters may be granted and the estate settled. R.S., c. 64, § 15.

## NUNCUPATIVE WILLS.

SEC. 16. 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.

When nuncupative wills may be approved; notice. R.S., c. 64, § 16. See c. 74, §§ 18-20.

## ADMINISTRATORS.

SEC. 17. Upon the death of any person intestate, the judge 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 applicants are more than twenty-one years old and are in other respects qualified for the trust, but if unsuitable, or being residents in the county, they after due notice neglect or refuse for thirty days from the death of the intestate to take out letters of administration, he may commit administration on such estate to such person or persons as he deems suitable.

Administration on the estate of deceased persons intestate, how made. 1874, c. 169, § 2. 22 Me., 553. 32 Me., 103.

SEC. 18. When any person is under sentence of death or of imprisonment for life, and is confined in pursuance thereof, he is, from the time of such imprisonment, to all intents and purposes, civilly dead; and his estate shall be administered upon and distributed, and his contracts and relations to persons and things are affected, in all respects, as if he were dead.

Estates of persons under sentence of death or imprisonment for life to be administered. R.S., c. 64, § 18. 47 Me., 469. 74 Me., 238.

SEC. 19. Every administrator, before entering on the execution of his trust, shall give bond with good and sufficient sureties resident within the state, in such sum as the judge orders, payable to him or his successors, conditioned, in substance, as follows:

Bonds of administrators. R.S., c. 64, § 19.

## CHAP. 64.

## SEC. 19.

Conditions.  
65 Me., 471.  
65 Me., 471.

I.—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.

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

65 Me., 471.

III.—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.

IV.—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.

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

62 Me., 308.  
65 Me., 471.

VI.—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 such representation 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.

## ADMINISTRATORS WITH THE WILL ANNEXED, AND DE BONIS NON.

Administra-  
tor. with will  
annexed,  
when to be  
appointed.  
1881, c. 21.

SEC. 20. If there is no person whom the judge can appoint executor of any will according to section six; or if the only one appointed neglects to file the required bond within the time therein allowed, he may commit administration of the estate, with the will annexed, to such person as he might 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 his minority, unless there is another executor who accepts the trust, in which case the estate shall be administered by such other executor until the minor arrives at full age, when he may be admitted as joint executor with the former, upon giving bonds as before provided.

When execu-  
tors or ad-  
ministrators  
may be  
removed.  
1874, c. 221.

SEC. 21. When an executor or administrator, residing out of the state, after being 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, said judge may remove him; and he may accept the resignation of any joint or sole executor or administrator, when he is satisfied, after public or personal notice to those interested, 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

—judge may  
commit  
administra-  
tion to other  
persons.

the same powers and be liable to the same obligations as other administrators or executors whom he succeeds.

SEC. 22. When an unmarried woman, who is joint or sole executrix or administratrix, 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 were dead. If there is no other, administration with the will annexed or otherwise may be granted, as provided in the preceding section.

Power of executrix or administratrix ceases on marriage; proceedings. R.S., c. 64, § 22. 56 Me., 302. 63 Me., 432.

SEC. 23. The executor of an executor has 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 thinks fit.

Death of executor, proceedings. R.S., c. 64, § 23. 64 Me., 422.

SEC. 24. Every person, appointed administrator with the will annexed, shall, before entering upon the execution of his trust, give such bond to the judge as is required of an executor. Every administrator de bonis non shall give such bond as is required of an executor or administrator, as the case may demand.

Bond of administrator with the will annexed, and de bonis non. R.S., c. 64, § 24.

#### PUBLIC ADMINISTRATORS.

SEC. 25. When a vacancy occurs in any county, the governor, with the advice and consent of council, shall appoint a public administrator therein, who shall take out letters of administration and administer on the estate of persons who die intestate in such county, not known to have in the state any heirs or kindred who can lawfully inherit such estate; and who shall account in like manner, and give bonds to the judge with like conditions, as in cases of ordinary administration, and with the further condition, in substance, that he will comply with the following section.

Appointment, duty, and bonds of public administrators. R.S., c. 64, § 25.

SEC. 26. 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 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 such judge, 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.

When the judge may revoke his powers. R.S., c. 64, § 26.

SEC. 27. The judge 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 person, except creditors, directly interested in such estate, can be found in the United States.

When he may be licensed to sell real estate. R.S., c. 64, § 27. See c. 71, § 1, ¶ 9.

SEC. 28. In such cases, the judge and the administrator shall

Proceedings in such sales.

CHAP. 64. observe all the provisions of law as to bonds, notices, oaths and other requirements, as in the sale of real estate by other administrators.

R.S., c. 64, § 28.

Balance in his hands to be paid to treasurer of state.  
R.S., c. 64, § 29.

SEC. 29. 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 for other purposes of administration, he shall be required by the judge to deposit it with the treasurer of state, who shall receive it; 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.

Notice to be given to treasurer.  
R.S., c. 64, § 30.

SEC. 30. In such case, the judge shall give notice to the treasurer of state of such amount, and from what estate it is 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.

Balance, not claimed in twenty years, forfeited to state.  
R.S., c. 64, § 31.

SEC. 31. 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.

When a special administrator may be appointed.  
R.S., c. 64, § 32.

SEC. 32. When there is a delay in granting letters testamentary or of administration, the judge of probate may appoint a special administrator, who shall, notwithstanding any pending 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, 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 for them under oath, and deliver them to the person authorized to receive them. When by reason of the removal or discharge of executors or administrators, and appeals from the decrees of removal or discharge, there is no executor or administrator to act, the judge may appoint a special administrator, who shall have the same powers, and perform the same duties as other special administrators, until such appeals are disposed of and some executor or administrator may legally act.

—bond to be given.

His powers and duties.  
R.S., c. 64, § 33.  
63 Me., 355.

SEC. 33. He shall collect all the goods, chattels, and debts of the deceased, control and cause to be improved all his real estate, collect the rents and profits thereof, and preserve them for the executor or administrator thereafter appointed; and for that purpose may maintain suits, and sell such perishable and other goods as the judge orders; pay the expenses of the funeral and last sickness, and of his administration; debts preferred under the laws of the United States; public rates and taxes, and money due the State from the deceased; and pay to the widow, if any, and if not, to the guardian of the children under fourteen years of age, for their temporary support, such sums as the judge orders, having regard to the state and amount of the property; and sums so paid to the widow or guardian shall be deducted, if the estate is solvent, from the share of the widow or children, but if insolvent, shall be considered by the judge in his allowance to them.

SEC. 34. The 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 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.

SEC. 35. No special administrator is liable to an action by any creditor of the deceased, without an application by such creditor to the judge, and his decree authorizing it; and the limitation of all suits against the estate begins 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.

SEC. 36. 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 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.

SEC. 37. Whoever 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, is liable as an executor in his own wrong, to the actions of the creditors and other persons aggrieved, 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 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 had to pay.

## PROVISIONS RELATING TO BOTH EXECUTORS AND ADMINISTRATORS.

SEC. 38. Every executor or administrator, within three months after giving bond for discharge of his trust, shall cause notice of his appointment to be posted in two or more public places, to be specified by the judge, in the town where the deceased last dwelt, if in the state, and shall give such further notice as the judge in writing directs.

SEC. 39. If the deceased was not an inhabitant of or resident in the state at the time of his death, public notice shall be given in some newspaper, or in such manner as the judge directs.

SEC. 40. An affidavit of the executor or administrator, or of the person employed by him to give such notice, filed with a copy of the notice, in the probate court, within one year after giving bond as aforesaid, and

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His compensation.  
R.S., c. 64, § 34.  
—when his powers cease; proceedings.

Not to be sued by creditor without decree of judge.  
R.S., c. 64, § 35.

In certain cases, letters may be granted to executor, pending appeal: proceedings.  
R.S., c. 64, § 36.

Who are executors in their own wrong; liability.  
R.S., c. 64, § 37.  
15 Me., 117.  
48 Me., 349.  
54 Me., 482.  
57 Me., 25.  
58 Me., 435.  
65 Me., 420.  
70 Me., 341.

Notice of appointment, by executors and administrators.  
R.S., c. 64, § 38.

Notice when deceased lived out of state.  
R.S., c. 64, § 39.

Notice proved by affidavit filed and recorded.

CHAP. 64. recorded, is evidence of the time, place and manner, in which the notice  
 R.S., c. 64, § 40. was given.

Non-resident executor or administrator must appoint agent or attorney in state. 1872, c. 6.  
 SEC. 41. Executors or administrators residing out of the state at the time of giving notice of their appointment, shall appoint an agent or attorney in the state, and insert his name and address in such notice. Demand or service made on such agent or attorney, binds the principals and the estate in their care as if made on themselves.

Devises of land, to be recorded. 1872, c. 79. 1874, c. 186, § 1. See c. 63, § 16.  
 SEC. 42. Executors and administrators shall cause so much of wills as devises real estate to be recorded in the registry of deeds in the district where such real estate is situated.

Inventory, when to be returned. R.S., c. 64, § 41. 61 Me., 471.  
 SEC. 43. 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.

Appointment of appraisers. R.S., c. 64, § 42.  
 SEC. 44. The real estate; goods and chattels, comprised in the inventory, shall be appraised by three disinterested persons appointed by the judge and 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 also be sworn.

Warrants may be revoked. R.S., c. 64, § 43.  
 SEC. 45. Any warrant for the appraisement of an estate, may be revoked by the judge for sufficient cause, and a new one issued, if necessary.

How choses in action shall be appraised. R.S., c. 64, § 44.  
 SEC. 46. Such of the credits of the deceased, and rights to personal property not in possession, as the appraisers judge to be available as assets, shall be enumerated 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 they shall state, in one general sum at the foot of such schedule, the amount which in their judgment may be realized from the same, exclusive of expenses and risk of settlement or collection.

Additional inventories may be required. R.S., c. 64, § 45.  
 SEC. 47. The judge may, at any time afterward, when any estate or effects, rights, or credits come to the knowledge or possession of any executor or administrator, require of him an additional inventory; appraisers in like manner shall be appointed and sworn; and return shall be made within the time directed by the judge in his warrant.

What shall be omitted from inventory. R.S., c. 64, § 46. 61 Me., 471.  
 SEC. 48. The following articles shall be omitted in making the inventory, and shall not be administered upon as assets:

I.—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.

II.—The apparel of the deceased, not exceeding one hundred dollars in value, if he left a widow and minor children, or either, in which case she or they are entitled to such apparel.

III.—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.

IV.—Any 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*, that such deceased left a widow or issue; but such money shall be disposed of as provided by section ten, of chapter seventy-five.

SEC. 49. If, after the return of an inventory, or in the progress of the settlement of an estate, the judge finds that the bonds given by an executor or administrator are too small in amount, or are 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.

SEC. 50. The judge, when he deems it necessary for the speedy payment of the debts of the deceased, or for the benefit of all parties interested, may order any of the goods and chattels, rights and credits, pews or interests in pews, not distributed, to be sold at public or private sale; and the executor or administrator shall account for the same as sold. Any personal estate or rights of action thus sold, may be assigned to the purchaser, and collected in the name of the executor or administrator, the purchaser giving him reasonable indemnity against costs, but reserving to debtors their rights of set-off; or the purchaser may sue therefor in his own name, subject to the same defence as if sued in the name of the executor or administrator. The legal rights of persons to whom specific legacies are bequeathed, are not affected by this section.

SEC. 51. Every executor or administrator shall account for the personal property and effects named in the inventory at the appraised value, unless sold under license as provided in the preceding section; but in case of credits and rights to property not in possession, if loss accrues without his fault or negligence, he may be allowed the amount of such loss in his account of administration; and if any goods or effects not sold under license, allowed to the widow, nor distributed to the heirs or devisees, are shown to be of greater value than they were appraised at, he shall account for the difference.

SEC. 52. The judge may authorize executors or administrators to adjust, by arbitration or compromise, any claims for money or other property in favor of or against the estates by them represented.

SEC. 53. When one or more claims against the estate of a person deceased, though not insolvent, are deemed by the executor or administrator to be exorbitant, unjust or illegal, on application in writing to the judge of probate, and after notice to the claimants, the judge, if upon hearing, he is satisfied that the allegations in said application are true, may appoint two or more commissioners, who shall, after being duly sworn, and after notifying the parties as directed in their commission, meet at a convenient time and place, and determine whether any and what amount shall be allowed on each claim, and report to him at such time as he may limit. The claimant may make similar application, and the same proceedings shall, after notice to the other party, be had thereon, if payment is refused, or is not made within thirty days after demand. Sections five, six, seven, eight, twelve, thirteen, fourteen, sixteen and

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SEC. 48.  
61 Me., 471.

When additional bonds may be required.  
R.S., c. 64, § 47.

When sales of personal estate may be ordered.  
R.S., c. 64, § 48.

—collection of demands sold.

For what executors and administrators shall account.  
R.S., c. 64, § 49.  
51 Me., 173.  
71 Me., 450.

Reference or compromise.  
R.S., c. 64, § 50.  
26 Me., 535.  
55 Me., 124.

Special commissioners may be appointed on disputed claims.  
R.S., c. 64, § 51.  
See c. 66, § 27;  
c. 69, § 6.  
61 Me., 239.  
67 Me., 116,  
225, 459.  
71 Me., 162.

—claimant has same rights as executor.  
1883, c. 228.  
R.S., c. 64, § 51.

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seventeen of chapter sixty-six, apply to such claims, and the proceedings thereon. No action shall be maintained on any claim so committed, unless proved before said commissioners; and their report on all such claims shall be final, saving the right of appeal.

Executor or administrator neglecting to pay debts, guilty of waste.  
R.S., c. 64, § 52.  
Accounts, when rendered; notice and examination.  
R.S., c. 64, § 53.  
See c. 66, § 26.

SEC. 54. Any executor or administrator who 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, is guilty of waste and unfaithful administration.

SEC. 55. Every executor or administrator shall render his accounts agreeably to the condition of his bond; and the judge may require him to account, when he deems it necessary. Reasonable notice shall be given before the allowance of any such account. On the examination thereof, the accountant may be interrogated under oath in relation to the same, and such record of his answers shall be made as the judge requires. (a)

All property received, to be accounted for.  
R.S., c. 64, § 54.  
39 Me., 18.  
49 Me., 66.  
62 Me., 308.

SEC. 56. Every executor and administrator is 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.

Also income of real estate used.  
R.S., c. 64, § 55.  
62 Me., 309.  
63 Me., 355.

SEC. 57. 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, 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, whose award, accepted by the judge, shall be final.

Executor or administrator may insure property.  
R.S., c. 64, § 56.  
Allowance for monuments or grave stones.  
R.S., c. 64, § 57.

SEC. 58. An executor or administrator may insure, at the expense of the estate, any property of the deceased that becomes assets in his hands, or which he holds in trust by the provisions of a will.

SEC. 59. In the settlement of the accounts of executors and administrators, the judge may allow a reasonable sum for the erection of monuments or grave stones; but, in insolvent estates, it shall not exceed twenty dollars.

What debts and expenses of deceased married women may be paid.  
R.S., c. 64, § 58.

SEC. 60. In the settlement of the estate of a married woman, debts contracted by her for the benefit of herself or her family, for which the credit was given to her, and for which her husband is not liable or is not able to pay, shall be paid by her executor or administrator, and allowed in his account; also all reasonable expenses occasioned by her last sickness.

Mutual debts of husbands and wives to be paid.  
R.S., c. 64, § 59.

SEC. 61. Executors or administrators may pay debts due from a deceased husband to his wife, or from a deceased wife to her husband, as if the marriage relation had never existed between them.

Claims, to be verified by affidavit if required.

SEC. 62. Executors or administrators may require any person making a claim against the estate of their testator or intestate, to present said claim in writing, supported by the affidavit of the claimant, or of some

other person cognizant thereof, stating what security the claimant has, if any, and the amount of credit to be given, according to the best of his knowledge and belief. (a) CHAP. 64.  
R.S., c. 64, § 60.

SEC. 63. No private claim of an executor or administrator, against the estate under his charge, shall be allowed in his account, unless particularly stated in writing; 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 the judge may accept, or recommit their written report, made pursuant to the submission, and decree accordingly. Claims of executors or administrators, how to be adjusted. R.S., c. 64, § 61. 74 Me., 486.

SEC. 64. When there is more than one executor or administrator, and either of them is removed, or his resignation is accepted by the judge, 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 his charge, and refuses either to account to the other, or to pay the debts, legacies, or other charges on such estate, or when the aggrieved executor is a residuary legatee. When one of several executors or administrators is removed or resigns, proceedings. R.S., c. 64, § 62.

SEC. 65. 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 has the same power and may proceed in like manner, as in cases between co-partners. Chancery remedies between co-executors and co-administrators. R.S., c. 64, § 63.

SEC. 66. 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, remain valid and effectual, and he is accountable in the same manner as if he had not been removed. Previous acts of those removed, are valid. R.S., c. 64, § 64.

#### EMBEZZLEMENT OF PROPERTY OF DECEASED PERSONS.

SEC. 67. Upon complaint by an executor, administrator, heir, legatee, creditor or other 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, effects or real estate of the deceased, or of having fraudulently received any such money, goods, effects, or real estate, or of aiding others in so doing, the judge of probate may cite such suspected person to appear before him to be examined on oath in relation thereto, and may require him to produce for the inspection of the court and parties all books, papers or other documents within his control relating to the matter under examination; *provided, however*, that this section does not apply to any examination touching the estate of persons deceased prior to February nineteen, eighteen hundred and seventy-four. Embezzlement of estate of deceased persons, proceedings in case of. 1874, c. 168, § 1. 7 Me., 470. 57 Me., 25. 72 Me., 232.

SEC. 68. Upon complaint of any such party, that a person intrusted —proviso. 1874, c. 168, § 2. See 1874, c. 262.  
Persons

(a) 72 Me., 345.

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intrusted  
with estate  
of deceased,  
may be cited  
to account.  
R.S., c. 64, § 66.

Penalties for  
refusal to  
appear and  
answer when  
cited.  
R.S., c. 64, § 67.

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. 69. If a person duly cited as aforesaid, refuses to appear and submit himself to such examination, or to answer all lawful interrogatories, or to produce such books, papers or documents, the judge shall commit him to jail, there to remain until he submits to the order of the court, or is discharged by the complainant or the supreme judicial court; and he is also liable to any injured party in an action on the case, for all the damages, expenses and charges arising from such refusal.

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## CHAPTER 65.

### ASSIGNMENT OF DOWER, PARTITION OF REAL ESTATE, AND DISTRIBUTION OF PERSONAL ESTATE.

#### ASSIGNMENT OF DOWER AND OTHER LIFE INTERESTS.

- SEC. 1. In what cases the judge of probate may assign dower.
2. Commissioners to be appointed and sworn; how to assign dower.
3. Special assignment of dower, when it cannot be by metes and bounds; widow's rights may be secured.
4. Widow may waive jointure and claim dower in certain cases.
5. Widow may waive provision in husband's will, and claim dower.
6. Rights of surviving husband in wife's lands, and how assigned.
7. Use of one half of deceased husband's or wife's estate, when to be assigned to survivor.

#### PARTITION OF REAL ESTATE.

- SEC. 8. In what cases the judge may make partition of real estate.
9. Reversions or remainders may be divided.
10. Appointment, oath and duties of commissioners.
11. Partition of estate in different counties.
12. Proceedings when equal division cannot be made.
13. Proceedings when interest of heir or devisee has been alienated.
14. When such interest is under attachment.
15. What estate shall be included in the partition.
16. Any owner may apply for partition. Notice.

#### PROVISIONS APPLICABLE TO ASSIGNMENT OF DOWER, AND TO PARTITION OF REAL ESTATE.

- SEC. 17. Warrant may be revoked. Proceedings.
18. Guardians appointed for minors, and agents for non-resident owners.
19. Proceedings, when land is owned in common with other parties.
20. Return of commissioners may be set aside or recommitted. Record, and its effect, when accepted.

#### ALLOWANCES TO WIDOWS AND OTHERS.

- SEC. 21. Allowances to widows from personal estate.
22. Mortgage debts allowed, may be assigned, to widows.