

# 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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**CHAP. 68.** trust estate; and the proceedings in such suit shall be conducted in the manner prescribed with respect to bonds of administrators.

R.S., c. 68, § 12.  
Executors becoming trustees by operation of law.

R.S., c. 68, § 13.  
37 Me., 275.  
50 Me., 548.

**SEC. 14.** The foregoing provisions are applicable to executors, who, by the provisions of a will, become trustees by operation of law without express appointment; but they are not required to return another inventory.

#### VOLUNTARY TRUSTS.

Trustee, in case of voluntary trusts, appointment of.

1874, c. 206, § 1.  
—bond.

**SEC. 15.** A person placing property for any purpose in the hands of a trustee, may, on petition to the judge of probate in the county where he resides, have the appointment of trustee confirmed by the judge; and said trustee shall file a bond, with sureties to be approved by the judge, for the fulfilment of said trust, according to the terms and conditions of the trust deed or declaration.

Trustee, accountable to judge of probate.

1874, c. 206, § 2.

**SEC. 16.** Such trustee shall account to the judge in the same manner as testamentary trustees, unless excused or released therefrom by the person creating the trust, or for whose benefit it was created; and at the termination of such trust, the money or property held by the trustee shall be paid or delivered to the person legally entitled thereto.

Remedies, if trustee fails to fulfil his bond.

1874, c. 206, § 3.

**SEC. 17.** If said trustee at any time fails to fulfil the conditions of the trust or of his bond, parties interested have the same remedies, and like proceedings shall be had, as in case of other probate bonds.

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## CHAPTER 69.

### ESTATES OF DECEASED PARTNERS.

- SEC. 1.**
1. Partnership property, how appraised; how administered.
  2. Bond to be given. Conditions.
  3. Liability upon bond and account, as if administrator.
  4. Who is to give bond and administer, if survivor does not.
  5. Survivor shall produce property for appraisal and administration. Penalty for neglect.
  6. Commissioners may be appointed on disputed claims. Partnership estates may be represented insolvent; proceedings.
  7. Sale of co-partnership real estate may, on application of surviving partner, be licensed by judge.
  8. In case of death of administrator on partnership estate, proceedings.

Partnership property, how appraised; how administered.

R.S., c. 69, § 1.

**SEC. 1.** The executor or administrator of a deceased member of a partnership, shall include in the inventory the property of the partnership, appraised as in other cases, except that an amount is to be carried out equal only to the share of the deceased. This property shall be retained and administered, unless the surviving partner gives bond to the judge as provided in the following section. (a)

Bond to be

**SEC. 2.** The bond shall be for such sum and with such sureties as the

(a) 36 Me., 343; 55 Me., 236; 56 Me., 229; 59 Me., 243; 61 Me., 17; 65 Me., 163; 74 Me., 339.

judge approves, conditioned to use fidelity and due diligence in closing the affairs of the late partnership; to apply the property thereof towards payment of partnership debts; to render an account, on oath, when required, of all partnership affairs, including property owned, debts due to and from, the amount received and collected, and the amount paid; and to pay to the executor or administrator of the deceased his proportion of any balance remaining after settlement, within one year after date of the bond, unless a longer time is allowed by the judge.

SEC. 3. The judge has the same authority to cite the principal in such bond, and to adjudicate upon his accounts, and the parties interested have the like remedies on his bond, as if he were an administrator.

SEC. 4. If the survivor, on being cited, does not give the bond required, the executor or administrator of the deceased shall give such bond, with the necessary variations, as is required in section two, and take possession of the property. He may use the name of the survivor to collect the debts.

SEC. 5. Every surviving partner shall exhibit to the executors or administrators of a deceased partner for appraisal, all partnership property existing at the time of his decease; and if such executors or administrators administer upon the partnership property, shall deliver it to them, with all books, notes, documents, and papers pertaining thereto, and shall afford them all reasonable information and facilities for the execution of their trust. If he neglects to do so, the judge, after citing him to show cause, may enforce obedience by committing him until he complies, or is released by the executors or administrators, or by order of the supreme judicial court.

SEC. 6. The person filing such bond may apply for commissioners on claims deemed exorbitant, unjust or illegal, with like proceedings and effect as in case of administrators or executors; or, if the partnership estate appears to be insufficient to pay the partnership debts, he may represent it to be insolvent, commissioners may be appointed, claims proved and allowed, and the partnership assets may be distributed to pay such claims as are allowed, and like proceedings shall be had as are prescribed in chapter sixty-six, so far as applicable, and with like effect. Nothing herein invalidates the right of claimants to recover from the surviving partner, or the estate of the deceased partner any balances due them after the partnership property is exhausted. Such proceedings already had, are valid.

SEC. 7. The executor or administrator of a deceased member of a co-partnership, or the surviving partner, who files a bond and is authorized to close the affairs of a partnership estate, may, on application to the probate judge of the county, be licensed to sell real estate, assets of the late partnership, in the same manner as any other executor or administrator is licensed to sell real estate, on petition and notice, and on giving bond, with sufficient sureties, to appropriate the proceeds to the payment of the partnership debts; and to pay over any balance that remains in his hands, after closing the affairs of said partnership estate, to the persons entitled to the same, and on taking the oath and complying with all the requirements of the law authorizing a sale of real estate.

## CHAP. 69.

given;  
conditions.  
R.S., c. 69, § 2.  
55 Me., 236.  
59 Me., 243.  
65 Me., 163.  
68 Me., 417.

Liability, as  
if adminis-  
trator.  
R.S., c. 69, § 3.

Who is to  
give bond and  
administer, if  
survivor does  
not.  
R.S., c. 69, § 4.  
59 Me., 243.  
74 Me., 339.

Survivor to  
produce  
property for  
appraisal  
and admin-  
istration.  
R.S., c. 69, § 5.

—penalty.  
36 Me., 343.  
55 Me., 236.

Commission-  
ers may be  
appointed on  
disputed  
claims.

—partner-  
ship estate  
may be  
represented  
insolvent;  
proceedings.  
R.S., c. 69, § 6.  
See c. 64, § 53.  
64 Me., 71.

Sale of co-  
partnership  
property  
when a  
partner has  
died.  
1871, c. 225.  
74 Me., 339.

## CHAP. 69.

Death of administrator on partnership estate, proceedings in case of. 1876, c. 116.

SEC. 8. When the person who has given bond to administer on a partnership estate where one of the partners is deceased, dies before completing the administration, the judge may commit administration on the estate of the partnership not already administered, to such person as he thinks fit, who shall give the bond required by section two, with the necessary variations, and comply with all the provisions of this chapter applicable to such cases.

## CHAPTER 70.

## THE INSOLVENT LAW.

## COURTS OF INSOLVENCY.

- SEC. 1. Courts of probate constituted courts of insolvency. Their officers and jurisdiction.
2. Terms. Adjournments.
3. What may be done in vacation.
4. Powers and duties of judge.
5. Records, how to be made and files kept. Papers admissible as evidence.
6. Judge may compel attendance of witnesses, and take testimony to be used in another court.
7. Powers and duties of register.
8. Processes to be under seal; their authority. Service and return.
9. Court room to be provided by county in shire town.
10. Majority of the judges may make rules.
11. Judges may interchange services. Provision in case of vacancy, and when judge is interested.
12. Appeal to supreme court, when heard and determined. Exceptions. Proceedings. Jury trial. Costs.
13. Supreme court has equity jurisdiction.
14. Application of terms "assignee," "messenger," "sheriff," &c.

## PROCEEDINGS IN INSOLVENCY.

- SEC. 15. Debtor may petition for proceedings.
16. If debts amount to three hundred dollars, warrant to issue. Sheriff to act as messenger. Notice, how to be given and what it must state.
17. When warrant of attachment may issue on application of creditors; service and hearing. Payments of debts, and conveyances and contracts of debtor, void during continuance of warrant. Additional warrant to issue on proof of allegations.
18. Messenger, duty of, when warrant is issued, or revoked.
19. On demand, debtor to deliver property to messenger, furnish schedule of creditors, statement of securities, and description of estate.
20. When debtor withholds property, judge may enforce delivery.
21. Sale of property may be ordered by judge.
22. Messenger shall deliver property to assignee, and return warrant.
23. Death of debtor does not affect proceedings. Allowance to his family.
24. Secured creditor cannot vote for assignee.
25. What debts and demands may be proved. Unliquidated damages and contingent liabilities. Rights of sureties, bail, guarantors, and others; proceedings. Rent dues. Form of creditor's oath. Proof of claim. Proceedings, in case of objection. Appeal to supreme court.
26. Time for proving claim.
27. Secured creditors' rights.