

MAINE STATE LEGISLATURE

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
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Chapter 154.

Executors and Administrators.

Wills and Executors.

Sec. 5. Public notice of hearing on petitions for probate of wills.

Applied in *Patterson v. Patterson*, 158 Me. 253, 182 A. (2d) 672.

Sec. 6. Depositions.—When any of the witnesses of a will offered for probate, or any other witness whose testimony is required to prove the signatures of the testator or of the witnesses of such will, live out of the state or more than 30 miles distant or, by age or indisposition of body, are unable to attend court, their depositions, taken as provided in chapter 117 or before a magistrate, notary public or justice of the peace authorized by commission from the judge, shall be competent evidence in the absence of such witnesses. (R. S. c. 141, § 6. 1955, c. 4. 1957, c. 103.)

Effect of amendments.—The 1955 amendment inserted in this section the word “or any other witness whose testimony is required to prove the signatures of the testator or of the witnesses of such

will.”

The 1957 amendment inserted the words “notary public or justice of the peace”.

Sec. 9. When letters testamentary granted.

The executor named in a will must be legally competent in the opinion of the judge of probate. The question of legal competency is one of determination by the judge. If the opinion of the judge is

based upon supporting evidence, it is then not vulnerable to attack by exceptions. In *re Royal's Appeal*, 152 Me. 242, 127 A. (2d) 484.

Sec. 11. Bond executor shall give.

This statute confers upon the court judicial discretion regarding executor's bonds and when it appears to the judge that it is necessary or proper, he may re-

quire an executor to give bond with sureties irrespective of a testator's expressed intention. In *re Royal's Appeal*, 152 Me. 242, 27 A. (2d) 484.

Sec. 13. What executors may act; powers of majority.—When 2 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; 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. An action 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. (R. S. c. 141, § 12. 1961, c. 317, § 493.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted “An action” for “a suit”

at the beginning of the present second sentence and made other minor changes.

Administrators.

Sec. 19. Grant of administration on estates of persons deceased, intestate.

Applied in *In re Joyce's Estate*, 158 Me. 304, 183 A. (2d) 513.

Sec. 20. Repealed by Public Laws 1959, c. 276.

Estates of Absentees.

Sec. 40. End of receivership.—If at the expiration of said 14 years said property has not been accounted for, delivered or paid over under the provisions of section 39, the court shall order the distribution of the remainder to the persons to whom, and in the shares and proportions in which, it would have been distributed if said absentee had died intestate within the state on the day 14 years after the date of the disappearance or absconding as found and recorded by the court, except that said receiver shall deduct from the share of each distributee and pay to the state tax assessor for the use of the state such amount as said distributee would have paid in an inheritance tax to the state if said distributee had received the property by inheritance from a deceased resident of this state. (R. S. c. 141, § 36. 1957, c. 397, § 55.)

Effect of amendment. — The 1957 amendment substituted “section 39” for “the preceding section”, and also substituted “state tax assessor” for “attorney general”.

Public Administrators.

Sec. 52. Balance distributed.—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, if no widow, widower or heirs of said deceased have been discovered, said administrator 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, and such principal is appropriated to pay such lawful claims. Any income earned on such funds shall be paid into the general fund as compensation for administration.

(1959, c. 319.)

Effect of amendment.—The 1959 amendment added a new sentence at the end of the first paragraph. As the rest of the section was not affected by the amendment, it is not set out.

Sec. 53. Notice; audit.—In all cases where letters of administration are granted to a public administrator, the register shall immediately send to the treasurer of state a copy of the petition and the decree thereon, and in all cases where the public administrator is ordered to pay the balance of the estate to the treasurer of state, the judge shall give notice to the treasurer of state of such amount and from what estate it is receivable. If said administrator neglects for 3 months after the order of the judge therefor to deposit the same, the treasurer of state shall bring a civil action upon his probate bond for the recovery thereof. The records and accounts of said public administrator shall be audited annually by the state department of audit. (R. S. c. 141, § 47. 1945, c. 325, § 5. 1961, c. 317, § 494.)

Effect of amendment.—The 1961 amendment divided the first sentence of this section into two sentences and substituted “treasurer of state shall bring a civil action upon his probate bond” for “treasurer shall cause his probate bond to be put in suit” in the present second sentence.

Special Administrators.

Sec. 56. Powers and duties.—The special administrator 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 actions and sell such perishable and other goods as the judge orders; and shall

have such powers to vote stock owned by the deceased as the deceased would have if living, at all corporation meetings, and the authority to sell and transfer any specific rights which may have accrued to the estate of said deceased as such stockholder and the judge may authorize and direct that the business of the deceased, in whole or in part shall, for a limited time to be determined by him, be carried on by such special administrator as a going business; 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 or widower, if any, and if not, to the guardian of the children under 14 years of age, for their temporary support, such sums as the judge orders, having regard to the state and the amount of the property; and sums so paid to the widow, widower or guardian shall be deducted, if the estate is solvent, from the share of the widow, widower or children, but if insolvent, shall be considered by the judge in his allowance to them. (R. S. c. 141, § 50. 1955, c. 276. 1961, c. 317, § 495.)

Effect of amendments. — The 1955 amendment inserted the words “or widower” in lines seventeen and eighteen. The 1961 amendment substituted “actions” in line fourteen and the word “wid-” for “suits” in line five.

Sec. 57. Compensation; when powers cease. — The special administrator shall be allowed such compensation for his services as the judge thinks reasonable, not exceeding that allowed to other administrators. 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 action commenced by the special administrator as if it had been commenced by himself. (R. S. c. 141, § 51. 1961, c. 317, § 496.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted “action” for “suit” in the present second sentence.

Sec. 58. Not sued by creditor without decree of judge. — 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. The limitation of all actions 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. (R. S. c. 141, § 52. 1961, c. 317, § 497.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted “actions” for “suits” in the present second sentence.

Provisions Relating to Both Executors and Administrators.

Sec. 70. Sales of personal estate ordered; collection of demands sold.—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 counterclaim; or the purchaser may sue therefor in his own name, subject to the same defense 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. (R. S. c. 141, § 64. 1961, c. 317, § 498.)

Effect of amendment.—The 1961 amendment substituted “counterclaim” for “set-off” in the second sentence of this section.

Sec. 72. Compromise of claims.—The judge after a hearing, public or personal notice of which shall have been given in accordance with order of court, 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 and likewise any other actions of whatsoever nature wherein such executors or administrators are parties.

(1961, c. 317, § 499.)

The 1961 amendment deleted “either at law or in equity” following “actions” in the first paragraph of this section. As the rest of the section was not affected by the amendment, it is not set out.

Sec. 87. Remedies between coexecutors and coadministrators.—The superior court may hear and determine all disputes and controversies between coexecutors and coadministrators, and between their respective legal representatives. In such case, the court has the same power and may proceed in like manner as in cases between copartners. (R. S. c. 141, § 80. 1961, c. 317, § 500.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and deleted “Either the supreme judicial court or” at the beginning of the section and “in all cases where there is not a plain, adequate and complete remedy at law” at the end of the present first sentence.

Discovery of Property of Deceased Persons.

Sec. 92. Refusal to appear and answer when cited.—If a person duly cited 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 superior court. He is liable to any injured party in a civil action for all the damages, expenses and charges arising from such refusal. (R. S. c. 141, § 85. 1961, c. 317, § 501.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted “a civil action” for “an action on the case” in the present second sentence and made other minor changes in the section.

Chapter 155.

Inheritance, Succession and Estate Taxes.

Administration.

Sec. 1. Inheritance and succession tax laws administered. — The assessment and collection of all taxes on inheritances and successions and of all estate taxes and the enforcement and administration of all the provisions of law relating thereto shall be vested in the state tax assessor. (R. S. c. 142, § 1. 1947, c. 354, § 2. 1953, c. 265, § 6. 1959, c. 33, § 14.)

Effect of amendment.—The 1959 amendment eliminated the former second paragraph providing that the commissioner of finance and administration might act for the state tax assessor with respect to inheritance taxes in his absence or disability.

Property Taxable.

Sec. 2. Property taxable; exemptions.

I.

C. By survivorship in any form of joint ownership including joint bank deposits in which the decedent joint owner contributed during his lifetime any