

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1955 SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 4

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**Place in Pocket of Corresponding  
Volume of Main Set**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1955

parties, the judge of probate, notwithstanding such waiver, before granting letters testamentary or of administration may, and unless he shall find that any inheritance or estate tax due and to become due the state is reasonably secured by the lien upon real estate hereinbefore provided shall, require a bond payable to him or his successor sufficient to secure the payment of all inheritance taxes and interest conditioned in substance to pay all inheritance and estate taxes due to the state from the estate of the deceased with interest thereon. An action for the recovery of inheritance and estate taxes and interest shall lie on either of said bonds without the authority of the judge of probate. (R. S. c. 142, § 20. 1955, c. 173.)

**Effect of amendment.**—The 1955 amendment substituted, in the third sentence, the words “unless he shall find that any inheritance or estate tax due and to become due the state is reasonably secured by the

lien upon real estate” for the words “if in his judgment the amount of any bequest or distributive share of the estate may be subject to a tax as.”

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## Chapter 158.

### Guardians. Adoption of Persons. Change of Name.

#### Guardians for Minors.

##### Sec. 3. Power over minor's persons and property.

**Petition insufficient.**—A probate petition for custody of a minor child alleging merely that there is “occasion” for the ap-

pointment of a guardian is insufficient under this section. *Legault v. Levesque*, 150 Me. 192, 107 A. (2d) 493.

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## Chapter 160.

### Testamentary Trustees and Voluntary Trusts.

Sections 27-33. The Rule against Perpetuities.

#### The Rule against Perpetuities.

**Sec. 27. When rule applied.**—In applying the rule against perpetuities to an interest in real or personal property limited to take effect at or after the termination of one or more life estates in, or lives of, persons in being when the period of said rule commences to run, the validity of the interest shall be determined on the basis of facts existing at the termination of such one or more life estates or lives. In this section an interest which must terminate not later than the death of one or more persons is a “life estate” even though it may terminate at an earlier time. (1955, c. 244.)

**Sec. 28. Age may be reduced to 21.**—If an interest in real or personal property would violate the rule against perpetuities as modified by section 27 because such interest is contingent upon any person attaining or failing to attain an age in excess of 21, the age contingency shall be reduced to 21 as to all persons subject to the same age contingency. (1955, c. 244.)

**Sec. 29. Contingent fees.**— A fee simple determinable in land or a fee simple in land subject to a right of entry for condition broken shall become a fee simple absolute if the specified contingency does not occur within 30 years from the date when such fee simple determinable or such fee simple subject to a right of entry becomes possessory. If such contingency occurs within said 30 years the succeeding interest, which may be an interest in a person other than the

person creating the interest or his heirs, shall become possessory or the right of entry exercisable notwithstanding the rule against perpetuities. But if a fee simple determinable in land or a fee simple in land subject to a right of entry for condition broken is so limited that the specified contingency must occur, if at all, within the period of the rule against perpetuities, said interests shall take effect as limited. This section shall not apply where both such fee simple determinable and such succeeding interest, or both such fee simple and such right of entry are for public, charitable or religious purposes; nor shall it apply to a deed, gift or grant to the state or any political subdivision thereof. (1955, c. 244.)

**Sec. 30. Application of §§ 27-33.**—Sections 27 to 33, inclusive, shall apply to both legal and equitable interests. (1955, c. 244.)

**Sec. 31. Limitation of §§ 27-33.**—Except as provided in the first sentence of section 29, sections 27 to 33, inclusive, shall not be construed to invalidate or modify the terms of any limitation which would have been valid prior to August 20, 1955. (1955, c. 244.)

**Sec. 32. Severability of §§ 27-33.**—If any of the provisions of sections 27 to 33, inclusive, shall be held invalid or unconstitutional in relation to any of the applications thereof, such invalidity or unconstitutionality shall not affect other applications thereof or others of said sections; and to this end sections 27 to 33, inclusive, are declared to be severable. (1955, c. 244.)

**Sec. 33. To what instruments effective.**—Sections 27 to 33, inclusive, shall apply only to inter vivos instruments taking effect after August 20, 1955, to wills where the testator dies after August 20, 1955, and to appointments made after August 20, 1955, including appointments by inter vivos instruments or wills under powers created before said effective date. (1955, c. 244.)

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## Chapter 164.

### Probate Bonds.

#### Actions on Bonds.

##### Sec. 9. Action on administrator's or executor's bond.

It is only when the breach is fraudulently concealed that action may be commenced later than six years from the time of breach of an administrator's or executor's bond, and then it must be commenced within three years from the date of discovery. *Dunton v. Maine Bonding & Casualty Co.*, 150 Me. 205, 107 A. (2d) 776.

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## Chapter 166.

### Domestic Relations. Marriage. Divorce.

#### Parents and Children.

**Sec. 21. Funds paid to minor not having guardian.**—Whenever, under any decree or order of the supreme judicial court or superior court of this state or of any justice of either of said courts, in term time or in vacation, or of any judge of any probate court in this state, any receiver, master, executor, administrator, trustee, guardian or other person acting under authority of either of said courts, or any justice or judge thereof shall have in his hands any funds not exceeding \$500 to be distributed or paid to any person under the age of 21 years, not having a guardian legally appointed in this state, payment may be