

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES
VOLUME 4

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

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1957

any general bequest other than of residue, which is not given in trust or for life or for a term of years; and by the inventory value of assets specifically devised and bequeathed. (1957, c. 183.)

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.

Chapter 165.

Actions by or against Executors and Administrators.

Actions by or against Executors and Administrators.

Sec. 9. Actions for injuries causing immediate death.

History of §§ 9 and 10.

152 Me. 257, 127 A. (2d) 490.

It is common knowledge that this and the following section is the Death Statute or Lord Campbell's Act. *Picard v. Libby*, 152 Me. 257, 127 A. (2d) 490.

Allegations of negligence held sufficient.—See *Picard v. Libby*, 152 Me. 257, 127 A. (2d) 490.

Sec. 10. How such action brought; amount recovered, disposed of.

—Every such action shall be brought by and in the names of the personal representatives of such deceased person, and the amount recovered in every such action, except as hereinafter provided, shall be for the exclusive benefit of the widow or widower, if no children, and of the children, if no widow or widower, and if both, then for the exclusive benefit of the widow or widower and the children equally, and, if neither, of his or her heirs. The jury may give such damages as they shall deem a fair and just compensation, not exceeding \$20,000, with reference to the pecuniary injuries resulting from such death to the persons for whose benefit such action is brought, and in addition thereto, shall give such damages as will compensate the estate of such deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses, provided such action shall be commenced within 2 years after the death of such person. (R. S. c. 152, § 10. 1957, c. 188.)

Effect of amendment.—The 1957 amendment increased the maximum amount of damages which may be given from \$10,000 to \$20,000 in the second sentence.

Section assumes death causes some damages.

In accord with 1st paragraph in original. See *Picard v. Libby*, 152 Me. 257, 127 A. (2d) 490.

Death claim and claim for expenses to be separated.—The usual practice, and the better practice, is to place the death claim for the statutory beneficiaries and the

funeral and other expenses in separate counts. In bringing the action the administrator acts in two capacities—first, as trustee to recover damages for the statutory beneficiaries, and second, as administrator to recover expenses chargeable to the estate. Whether the death claim and expenses are included in one count or are separated in two counts, in either event, the jury must be directed to find and report the damages found in each type of claim. *Picard v. Libby*, 152 Me. 257, 127 A. (2d) 490.