

# MAINE STATE LEGISLATURE

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## CHAPTER 217

## PAYMENT AND COLLECTION OF DEBTS

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## SUBCHAPTER I

## DEBTS OF ESTATE

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**§ 1851. Executor or administrator neglecting to pay debts guilty of waste**

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.

R.S.1954, c. 154, § 75.

**§ 1852. Order for sale of personal estate; 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.1954, c. 154, § 70; 1961, c. 317, § 498.

**§ 1853. Property taken from devisee for payment of debts, loss borne equally**

When property is taken by execution from a devisee or legatee thereof, or is sold by order of court for payment of debts, all the other devisees, legatees and heirs shall pay him their proportion thereof, so as to make the loss fall equally on all, according to the value of the property received by each from the testator, except as provided in section 1854.

R.S.1954, c. 169, § 6.

**§ 1854. Marshaling of assets for payment of debts**

If the testator has made a specific bequest, so that by operation of law it is exempted from liability to contribute for payment of debts, or if he has required an application of his estate for that purpose different from section 1853, the estate shall be appropriated according to the will. No part of the estate can be exempted from liability for payment of debts if required therefor.

R.S.1954, c. 169, § 7.

**§ 1855. Application of undevisee real estate to debts**

When a part of the real estate of a testator is not disposed of by his will, and the personal estate is not sufficient to pay his debts, such undevisee real estate shall be applied for that purpose in exoneration of the real estate devised, unless it appears that a different arrangement was made in the will for that purpose, and then the assets shall be applied according to its provisions.

R.S.1954, c. 169, § 13.

**§ 1856. Payment of debts and expenses of deceased married women**

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; and all reasonable expenses occasioned by her last sickness.

R.S.1954, c. 154, § 81.

**§ 1857. Payment of mutual debts of husbands and wives**

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.

R.S.1954, c. 154, § 82.

SUBCHAPTER II

DEBTS DUE ESTATE

Sec.

1901. Lien for debt due from legatee or distributee.

1902. Assignment of debts; conditions of action.

1903. Heir indebted to estate; lien created.

**§ 1901. Lien for debt due from legatee or distributee**

A debt, whether matured or not, due to the estate of a deceased person from a legatee or distributee of such estate creates a lien on the legacy or distributive share, having priority of any attachment or transfer of such legacy or share, and shall be set off against or deducted from the legacy of such legatee or from the distributive share of such distributee. The probate court shall, after due notice, hear and determine the validity and amount of any such debt and may make all necessary or proper decrees and orders to effect such setoff or deduction. This section shall not prejudice any remedy of an executor or administrator for the recovery of such debt nor affect the liability of the legatee or distributee for the excess of indebtedness over the amount of his share in or claim upon the estate to which he is indebted.

R.S.1954, c. 156, § 20.

**§ 1902. Assignment of debts; conditions of action**

If any evidence of debt or account due to the deceased is thus assigned, the assignee may use the name of the executor or administrator to collect the same, by civil action or otherwise, on

giving such indemnity against costs as the judge orders, saving to all supposed debtors the right to set off any claim against the estate of the deceased.

R.S.1954, c. 156, § 23; 1961, c. 317, § 508.

**§ 1903. Heir indebted to estate; lien created**

When an estate is solvent and a person to whom a share of it descends is indebted to the intestate at the time of his death, such debt creates a lien on his share, having priority to any attachment of it. Such lien may be enforced by a civil action and attachment of the share within 2 years after administration is granted, and by levy within 30 days after judgment. In such action, or in one brought by the heir, all claims between the intestate and heir may be set off and adjusted, and the balance due may be established.

R.S.1954, c. 170, § 7; 1961, c. 317, § 561.