

MAINE STATE LEGISLATURE

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FORTH-EIGHTH LEGISLATURE.

HOUSE.

No. 9.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

AN ACT in addition to and in amendment of chapter sixty-three of the revised statutes.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. Courts of probate in this state are 2 courts of record. The seal of the judge is the seal of 3 the court, and the register of the same court has cus- 4 tody of said seal.

SECT. 2. In case of the sickness, absence from the 2 state, or inability of the judge of probate in any 3 county to hold the regular terms of his court, the 4 judge of probate of any other county, at the request of 5 the judge or register of probate for the county where 6 the emergency arises, may hold any regular term of 7 such court, and his orders, decrees and decision shall

8 have the same force and validity as if made by the
9 judge of said county.

SECT. 3. The second section of chapter sixty-three
2 of the revised statutes is amended so as to read as fol-
3 lows :

4 “*Sect. 2.* Sheriffs and their deputies, coroners and
5 constables shall serve and execute all legal processes
6 directed to them by any judge of probate ; and such
7 judge may, when he deems it necessary, require any
8 such officer, when not in attendance upon any other
9 court, to attend during the sitting of the probate
10 court, for which attendance the officer shall be entitled
11 to be paid as in other courts for similar services ; and
12 any person summoned before the judge as a witness,
13 refusing to appear and give evidence, is liable to the
14 same penalties and damages as for such refusal before
15 the supreme judicial court.”

SECT. 4. The tenth section of the same chapter is
2 amended by inserting after the word “judge,” the
3 words “or register,” and all oaths described in said
4 tenth section, except to the truth of accounts rendered,
5 may be administered by the judge or register of pro-
6 bate or any justice of the peace.

SECT. 5. The fourteenth section of the same chap-
2 ter is amended by striking out all after the word
3 “allowed,” near the end of said section, and insert-

4 ing the words "and such orders and decrees of the
5 judge, and other matters, as he directs."

SECT. 6. The nineteenth section of the same chap-
2 ter is amended so that it shall read as follows :

3 "Sect. 19. The supreme judicial court is the
4 supreme court of probate, and has appellate jurisdic-
5 tion in all matters determinable by the several judges
6 of probate ; and any person aggrieved by any order,
7 sentence, decree or denial of such judges, except the
8 appointment of a special administrator, may appeal
9 therefrom to the supreme court to be held within and
10 for the same county, if he claims his appeal within
11 twenty days from the date of the proceeding appealed
12 from ; or, if at that time he was beyond sea, or out
13 of the United States, and had no sufficient attorney
14 within the state, within twenty days after his return
15 or constitution of such attorney."

SECT. 7. The twentieth section of the same chapter
2 is amended so as to read as follows :

3 "Sect. 20. Within the time limited for claiming
4 an appeal the appellant shall file in the probate office
5 his bond to the adverse party, or to the judge of pro-
6 bate for the benefit of the adverse party, for such sum
7 and with such sureties, as the judge approves ; con-
8 ditioned to prosecute his appeal with effect and pay

9 all intervening costs and damages, and such costs as
10 the supreme court taxes against him ; and within
11 said limited time he shall also file in the probate office
12 the reasons of appeal ; and fourteen days at least
13 before the sitting of the appellate court, shall serve
14 all the other parties who appeared before the judge of
15 probate in the case, with a copy of such reasons
16 attested by the register of probate ; but in case of
17 controversy between a person under guardianship and
18 his guardian, the supreme court may sustain an appeal
19 on the part of the ward without such bond.”

SECT. 8. The twenty-fourth section of the same
2 chapter is amended so as to read as follows :

3 “ *Sect. 24.* Such appeal shall be cognizable at the
4 next term of the supreme court, which is held after
5 the expiration of thirty-four days after the date of the
6 proceeding appealed from, and said court may reverse
7 or affirm, in whole or in part, the sentence or act ap-
8 pealed from, pass such decree thereon as the judge
9 of probate ought to have passed, remit the case to the
10 probate court for further proceedings, or take any
11 order therein, that law and justice require ; and if,
12 upon such hearing, any question of fact occurs proper
13 for a trial by jury, an issue may be formed for that
14 purpose under the direction of the court, and so
15 tried.”

COURTS OF PROBATE.

5

SECT. 9. This act shall be in full force on its ap-
2 proval by the governor.



STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
January 22, 1869. }

Reported from the Committee on the Judiciary by Mr. HUB-
BARD of Wiscasset.

S. J. CHADBOURNE, *Clerk.*