

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

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PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

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BANGOR:  
WHEELER & LYNDE.

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1857.

**CHAP. 67.** their power to allow or appoint any one, as next friend of such person, to commence, prosecute, or defend, any suit in his behalf.

EMBEZZLEMENT OF THE WARD'S ESTATE.

Proceedings  
on suspicion of  
embezzlement  
of ward's  
estate.  
R. S., c. 110,  
§ 17.

**SEC. 24.** Upon complaint made to the judge of probate by any guardian, ward, creditor, or other person interested in the estate, or having claims thereto in expectancy as heir or otherwise, against any one suspected of having concealed, embezzled, or conveyed away any of the money, goods, or effects of the ward, the judge may cite and examine such suspected person, and proceed with him in the manner provided in relation to those suspected of embezzling the estates of deceased persons.

Punishment  
for embezzle-  
ment.  
R. S., c. 110,  
§ 18.

**SEC. 25.** If any guardian, having the charge and custody of any property belonging to his ward, embezzles the same in violation of his trust, or fraudulently converts the same to his own use, he shall be punished by fine not exceeding five thousand dollars, or confinement to hard labor for a term not exceeding ten years, or both, according to the aggravation of the offence.

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**CHAPTER 68.**

TESTAMENTARY TRUSTEES.

- SEC. 1. Testamentary trustees to give bonds. Conditions thereof.
2. In what cases bonds may not be required.
3. Neglecting to give bond deemed declining the trust.
4. When trustee may resign. Executor of trustee not required to accept this trust. When trustee becomes disqualified, he may be removed.
5. When trustee declines or dies, judge may fill vacancy.
6. Trustee thus appointed to have same powers as others, and judge may order conveyances to vest the estate.
7. Such trustee to give bond. Judge may dispense with inventory, and bond be altered accordingly. No right to vest without bond.
8. Estates to be appraised.
9. Probate or supreme court may direct the sale of trust estates and investment of the funds in other property.
10. Said courts may hear in equity all matters relating to trusts.
11. When and how bonds of trustees may be sued.
12. Provisions applicable to trustees by operation of law.

Testamentary  
trustees to  
give bonds.  
Conditions.  
17 Maine, 137.  
R. S., c. 111,  
§ 1.

**SEC. 1.** Every testamentary trustee, except those hereinafter exempted, before entering on his duties, shall give bond to the judge of probate for the county where the will is proved, with sufficient surety or sureties, in such sum as the judge prescribes, with conditions as follows:

*First.* — That he will faithfully execute such trust according to the will of the testator, so far as consistent with law.

*Second.* — That he will make a true and perfect inventory of the real estate, goods and chattels, rights and credits of such estate, to be returned into the probate office at such time as the judge orders.

*Third.*— That he will render an account of the income and profits thereof, and of his payments and expenses, once in three years, and oftener if required by the judge.

*Fourth.*— That at the expiration of such trust he will settle his accounts with the judge; pay and deliver over all balances, sums of money, or other property, that are due, and give possession of the other estate, with which he is entrusted, to the persons entitled thereto.

SEC. 2. In the following cases bonds shall not be required of such trustees, unless, for special reasons, the judge determines it to be necessary; but when no bond is required, they shall settle their account with the judge of probate annually:

When bonds may not be required.  
R. S., c. 111, § 2.

*First.*— When the testator has requested or directed, that a bond should not be required.

*Second.*— When all the parties interested in the trust fund, if of full age and legal capacity, in writing signify to the judge their request that a bond should not be required.

*Third.*— When the trustee, not before being required to give bond, had entered on the duties of his trust prior to August first, eighteen hundred and forty-one.

SEC. 3. Every person appointed a testamentary trustee, who neglects to give bond within the time allowed therefor by the judge, shall be considered as declining the trust.

Neglecting to give bond, &c.  
R. S., c. 111, § 3.

SEC. 4. Such trustee at his own request may be allowed to resign his trust, when it seems proper to the judge of probate; no person succeeding to such trust as executor or administrator of a former trustee, is required to accept or retain it against his will; and when any trustee, appointed either by the testator or the judge of probate, becomes insane or otherwise evidently unsuitable to discharge his trust, the judge, upon notice to him and all others interested, may remove him and appoint another.

When trustee may resign, &c.  
R. S., c. 111, § 4, 5, 6.

SEC. 5. When any person appointed trustee declines, resigns, or dies, before the objects of the trust are accomplished, if no adequate provision is made by the will for supplying such vacancy, the judge of probate, after notice to all persons interested, shall appoint a new sole, or joint trustee.

When trustee declines or dies, judge may fill vacancy, &c.  
R. S., c. 111, § 7.

SEC. 6. Every trustee, appointed by the judge of probate, shall have and exercise the same powers, rights, and duties, as a sole or joint trustee, as if he had been appointed by the testator, and the trust estate shall vest in him accordingly; and the judge may order such conveyances to be made by the former trustee or his representatives, or by the remaining trustees, as are proper to vest in the new trustee, solely or jointly, such estate and effects.

Trustee thus appointed to have same powers, &c.  
R. S., c. 111, § 8, 9.

SEC. 7. Every trustee, appointed by the judge of probate, before entering on his duties, shall give bond as aforesaid; but the judge may dispense with making and returning an inventory by any substituted trustee, when he thinks it unnecessary, and the condition of the bond shall be altered accordingly; but without such bond, accepted by the judge, no right or authority shall vest in such trustee.

To give bond, &c.  
R. S., c. 111, § 10.

## CHAP. 68.

Estates to be appraised.  
R. S., c. 111, § 11.

Courts may direct sale of trust estates, &c.

33 Maine, 552.  
R. S., c. 111, § 12.

Courts may hear in equity, &c.

R. S., c. 111, § 13.

How bonds of trustees may be sued.

R. S., c. 111, § 14.

Provisions applicable to trustees by operation of law.

37 Maine, 264.

SEC. 8. When an inventory is required to be returned by any trustee, the estate and effects shall be appraised by three suitable persons, appointed and sworn, as in the case of the estates of deceased persons.

SEC. 9. Any judge of probate, having jurisdiction of the trust, and the supreme judicial court in any county, on the application of the trustee, or of any person interested in the trust estate, after notice to all others interested, may authorize or require the trustee to sell any real or personal estate held by him in trust, and invest the proceeds thereof, and also any other trust moneys in his hands, in real estate, or in any other manner most for the interest of all concerned therein; and give such further directions, as the case requires, for managing, investing, and disposing of the trust fund, according to the provisions of the will.

SEC. 10. Either of said courts may hear and determine, in equity, all other matters relating to the trusts herein mentioned.

SEC. 11. Any bond given by a trustee may be put in suit, by order of the judge of probate, for the benefit of any person interested in the trust estate; and the proceedings in such suit shall be conducted in the manner prescribed with respect to bonds of administrators.

SEC. 12. These provisions are applicable to executors who, by the provisions of a will, become trustees by operation of law without any express appointment, but they are not required to return another inventory.

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## CHAPTER 69.

## ESTATES OF DECEASED PARTNERS.

- SEC. 1. Partnership property included in inventory of deceased partner's estate.
2. Bond, and its condition, of surviving partner.
3. Judge has same power, those interested same remedies, as if administrator.
4. When survivor does not give bond, administrator to do it.
5. Survivor to deliver property to administrator; judge may enforce obedience.

Partnership property included in inventory of partner deceased.

R. S., c. 107, § 26, 27, 30.

Bond and its condition.

R. S., c. 107, § 27, 28.

SEC. 1. The executor or administrator of a deceased member of a partnership, is to include in the inventory the property of the partnership, appraised as in other cases, except that an amount is to be carried out equal only to the share of the deceased. This property is to be retained and administered, unless the surviving partner gives bond to the judge as provided in the following section.

SEC. 2. The bond is to be for such sum and with such sureties as the judge approves, conditioned to use fidelity and due diligence in closing the affairs of the late partnership; to apply the property thereof towards payment of partnership debts; to render an account, on oath, when required, of all partnership affairs, including property owned, debts due to and from, the amount received and collected, and the amount paid; to pay to the executor or administrator of the deceased his proportion of