

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



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1884.

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of obedience and maintenance in respect to them; and, for the custody of the person and all rights of inheritance, obedience and maintenance, he becomes to all intents and purposes, the child of his adopters, the same as if born to them in lawful wedlock, except that he shall not inherit property expressly limited to the heirs of the body of the adopters, nor property from their lineal or collateral kindred by right of representation, and *provided*, that the right of inheritance only applies to adoptions made since February twenty-four, eighteen hundred and eighty, and where not otherwise expressly provided in the decree of adoption; and the adoption of a child, made in any other state before or since said date, according to the laws of that state, shall have the same force and effect in this state, as to inheritance and all other rights and duties, as it had in the state where made, in case the person adopting thereafter dies domiciled in this state.

CHAP. 67.
1880, c. 133.

SEC. 36. Any petitioner, or any such child by his next friend, may appeal from such decree to the supreme court of probate, in the same manner and with the same effect, as in other cases, but no bond to prosecute his appeal shall be required of such child or next friend, nor costs be awarded against either.

Appeal to the supreme court of probate.
R.S., c. 67, § 32.

SEC. 37. The judge of probate, on the death of either of said adopters may make a reasonable allowance to such child from the personal estate of the deceased, if the circumstances of the case demand it.

Allowance to child from estate of adopters.
R.S., c. 67, § 33.

SEC. 38. Any judge of probate may, on petition of two or more inhabitants of his county, after notice and hearing, and for good cause shown, reverse and annul any decree of the probate court in his county, whereby any child has been adopted under this chapter.

Adoption, any decree of, may be annulled.
1874, c. 242.

CHANGE OF NAME.

SEC. 39. If a person desires to have his name changed, he may petition the judge of probate in the county where he resides; or, if he is a minor, his legal custodian may petition in his behalf, and the judge after such notice, if any, as he deems expedient, may change the name of such person, and shall make and preserve a record thereof.

Name, how changed.
1876, c. 59.

—minors must petition by guardian.
1873, c. 97, § 2.

CHAPTER 68.

TESTAMENTARY TRUSTEES AND VOLUNTARY TRUSTS.

TESTAMENTARY TRUSTEES.

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7. Powers of trustee thus appointed.

CHAP. 68.

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VOLUNTARY TRUSTS.

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 17. Same remedies against trustee as in case of other probate bonds.

TESTAMENTARY TRUSTEES.

Bonds of trustees.
 R.S., c. 68, § 1.
 17 Me., 140.
 37 Me., 275.
 61 Me., 98.
 62 Me., 450.
 —conditions.

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 sureties, in such sum as the judge prescribes, conditioned as follows:

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

II.—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.

III.—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.

IV.—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 intrusted, 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:

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

II.—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 shall not be required.

III.—When the trustee, not being before required to give bond, had entered on the duties of his trust prior to August one, 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 to decline the trust.

SEC. 4. Such trustee at his own request may be allowed to resign his trust, when it seems proper to the judge; 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, 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 bonds may not be required.
 R.S., c. 68, § 2.

Trustee, neglecting to give bond.
 R.S., c. 68, § 3.

Trustee may resign, or be removed, after notice.
 R.S., c. 68, § 4.

SEC. 5. When a trustee under a written instrument, declines, resigns, dies, or is removed, before the objects thereof are accomplished, if no adequate provision is made therein for supplying the vacancy, the probate court or supreme judicial court shall, after notice to all persons interested, appoint a new trustee to act alone or jointly with the others, as the case may be. Such new trustee, upon giving the bonds and security required, shall have and exercise the same powers, rights and duties, whether as a sole or joint trustee, as if he had been originally appointed, and the trust estate vests in him in like manner as it had or would have vested in the trustee in whose place he is substituted.

CHAP. 68.

Vacancy in trusts, how filled.
1878, c. 8, § 1.
69 Me., 398.

—new trustee shall give bonds.

—his powers, rights and duties.

SEC. 6. Upon the appointment of a trustee under the preceding section, the court may order such conveyance to be made by the former trustee, or by his representatives, or by the other remaining trustees, as is proper or convenient to vest in such trustee, either alone or jointly with the others, the estate and effects to be held in trust.

Court may order conveyances to be made to him.
1878, c. 8, § 2.
69 Me., 399.

SEC. 7. Every trustee, appointed by the judge, shall have and exercise the same powers, rights, and duties, as sole or joint trustee, as if he had been appointed by the testator, and the trust estate vests 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.

Power of a trustee thus appointed.
R.S., c. 68, § 6.
65 Me., 106.

SEC. 8. Every trustee, appointed by the judge, shall, before entering on his duties, give bond as aforesaid; but the judge may dispense with the 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 vests in such trustee.

Such trustee shall give bond.
R.S., c. 68, § 7.

SEC. 9. When a trustee is required to return an inventory, the estate and effects shall be appraised by three suitable persons, appointed and sworn, as in case of the estates of deceased persons. Warrants for inventories may be revoked by the judge for cause, and new ones issued, if deemed necessary.

Inventory shall be returned by trustee.
R.S., c. 68, § 8.

SEC. 10. The judge may authorize any trustee to refer or compromise claims by or against the trust estate.

May refer or compromise.
R.S., c. 68, § 9.

SEC. 11. Any judge of probate, having jurisdiction of the trust, and the supreme judicial court in any county, on application of the trustee, or of any person interested in the trust estate, after notice to all interested, may authorize or require him to sell any real or personal estate held by him in trust, and to invest the proceeds thereof, with any other trust moneys in his hands, in real estate, or in any other manner most for the interest of all concerned therein; and may give such further directions as the case requires, for managing, investing, and disposing of the trust fund, according to the will.

Courts may direct trust estates to be sold, and moneys to be invested.
R.S., c. 68, § 10.
33 Me., 553.
50 Me., 541.

SEC. 12. Either of said courts may hear and determine, in equity, all other matters relating to the trusts herein mentioned.

Equity power as to trusts.
R.S., c. 68, § 11.
50 Me., 541.

SEC. 13. 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

How bonds of trustees may be sued.

CHAP. 68. trust estate; and the proceedings in such suit shall be conducted in the manner prescribed with respect to bonds of administrators.

R.S., c. 68, § 12.

Executors becoming trustees by operation of law.

R.S., c. 68, § 13.
37 Me., 275.
50 Me., 548.

SEC. 14. The foregoing provisions are applicable to executors, who, by the provisions of a will, become trustees by operation of law without express appointment; but they are not required to return another inventory.

VOLUNTARY TRUSTS.

Trustee, in case of voluntary trusts, appointment of.

1874, c. 206, § 1.
—bond.

SEC. 15. A person placing property for any purpose in the hands of a trustee, may, on petition to the judge of probate in the county where he resides, have the appointment of trustee confirmed by the judge; and said trustee shall file a bond, with sureties to be approved by the judge, for the fulfilment of said trust, according to the terms and conditions of the trust deed or declaration.

Trustee, accountable to judge of probate.

1874, c. 206, § 2.

SEC. 16. Such trustee shall account to the judge in the same manner as testamentary trustees, unless excused or released therefrom by the person creating the trust, or for whose benefit it was created; and at the termination of such trust, the money or property held by the trustee shall be paid or delivered to the person legally entitled thereto.

Remedies, if trustee fails to fulfil his bond.

1874, c. 206, § 3.

SEC. 17. If said trustee at any time fails to fulfil the conditions of the trust or of his bond, parties interested have the same remedies, and like proceedings shall be had, as in case of other probate bonds.

CHAPTER 69.

ESTATES OF DECEASED PARTNERS.

- SEC. 1.** Partnership property, how appraised; how administered.
- SEC. 2.** Bond to be given. Conditions.
- SEC. 3.** Liability upon bond and account, as if administrator.
- SEC. 4.** Who is to give bond and administer, if survivor does not.
- SEC. 5.** Survivor shall produce property for appraisal and administration. Penalty for neglect.
- SEC. 6.** Commissioners may be appointed on disputed claims. Partnership estates may be represented insolvent; proceedings.
- SEC. 7.** Sale of co-partnership real estate may, on application of surviving partner, be licensed by judge.
- SEC. 8.** In case of death of administrator on partnership estate, proceedings.

Partnership property, how appraised; how administered.

R.S., c. 69, § 1.

SEC. 1. The executor or administrator of a deceased member of a partnership, shall 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 shall be retained and administered, unless the surviving partner gives bond to the judge as provided in the following section. (a)

Bond to be

SEC. 2. The bond shall be for such sum and with such sureties as the

(a) 36 Me., 343; 55 Me., 236; 56 Me., 229; 59 Me., 243; 61 Me., 17; 65 Me., 163; 74 Me., 339.