

MAINE STATE LEGISLATURE

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FIFTH REVISION.

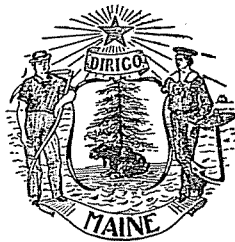
THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
KENNEBEC JOURNAL PRINT,
1904.

CHAPTER 71.

ESTATES OF DECEASED PARTNERS.

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)

Partnership property, now appraised; how administered. R. S., c. 69, § 1.

SEC. 2. The bond shall 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; and to pay to the executor or administrator of the deceased his proportion of any balance remaining after settlement, within one year after date of the bond, unless a longer time is allowed by the judge. (b)

Bond to be given; conditions. R. S., c. 69, § 2.

SEC. 3. The judge has the same authority to cite the principal in such bond, and to adjudicate upon his accounts, and the parties interested have the like remedies on his bond, as if he were an administrator.

Liability, as if administrator. R. S., c. 69, § 3. 79 Me., 159.

SEC. 4. If the survivor, on being cited, does not give the bond required, the executor or administrator of the deceased shall give such bond, with the necessary variations, as is required in section two, and take possession of the property. He may use the name of the survivor to collect the debts. (c)

Administrator to give bond if survivor does not. R. S., c. 69, § 4.

SEC. 5. Every surviving partner shall exhibit to the executors or administrators of a deceased partner for appraisal, all partnership property existing at the time of his decease; and if such executors or administrators administer upon the partnership property, shall deliver it to them, with all books, notes, documents and papers pertaining thereto, and shall afford them all reasonable information and facilities for the execution of their trust. If he neglects to do so, the judge, after citing him to show cause, may enforce obedience by committing him until he complies, or is released by the executors or administrators, or by order of the supreme judicial court.

Survivor to produce property for appraisal and administration. R. S., c. 69, § 5.

—penalty. 36 Me., 343. 55 Me., 236.

SEC. 6. The person filing such bond may apply for commissioners on claims deemed exorbitant, unjust or illegal, with like proceedings and effect as in case of administrators or executors; or, if the partnership estate appears to be insufficient to pay the partnership debts, he may represent it to be insolvent, commissioners may be appointed, claims proved and allowed, and the partnership assets may be distributed to pay such claims as are allowed, and like proceedings shall be had as are prescribed in chapter sixty-eight, so far as applicable, and with like effect. Nothing herein invalidates the right of claimants to recover from the surviving partner, or the estate of the deceased partner any balances due them after

Commissioners may be appointed on disputed claims.

—partnership estate may be represented insolvent; proceedings. R. S., c. 69, § 6. See c. 66, § 54; c. 84, § 160. 64 Me., 71.

(a) 36 Me., 343; 55 Me., 236; 56 Me., 229; 59 Me., 243; 61 Me., 17; 65 Me., 163; 74 Me., 339; 79 Me., 160; 81 Me., 228.

(b) 55 Me., 236; 59 Me., 243; 65 Me., 163; 68 Me., 417; 79 Me., 159; 92 Me., 83.

(c) 59 Me., 243; 74 Me., 339; 79 Me., 159.

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the partnership property is exhausted. Such proceedings already had, are valid.

Sale of co-partnership real estate when a partner has died.
R. S., c. 69, § 7.
See c. 73, §§ 1-5.
74 Me., 339.

SEC. 7. The executor or administrator of a deceased member of a co-partnership, or the surviving partner, who files a bond and is authorized to close the affairs of a partnership estate, may, on application to the judge of probate of the county, be licensed to sell real estate, assets of the late partnership, in the same manner as any other executor or administrator is licensed to sell real estate, on petition and notice, and on giving bond, with sufficient sureties, to appropriate the proceeds to the payment of the partnership debts; and to pay over any balance that remains in his hands, after closing the affairs of said partnership estate, to the persons entitled to the same, and on complying with all the requirements of the law authorizing a sale of real estate.

Death of administrator on partnership estate, proceedings.
R. S., c. 69, § 8.

SEC. 8. When the person who has given bond to administer on a partnership estate where one of the partners is deceased, dies before completing the administration, the judge may commit administration on the estate of the partnership not already administered, to such person as he thinks fit, who shall give the bond required by section two, with the necessary variations, and comply with all the provisions of this chapter applicable to such cases.

Note. Compensation of surviving partners, c. 65, § 37.

CHAPTER 72.

THE INSOLVENT LAW.

COURTS OF INSOLVENCY.

Courts of insolvency, officers and jurisdiction.
R. S., c. 70, § 1.
70 Me., 151.
71 Me., 152.

SEC. 1. The courts of probate for each county are courts of insolvency, and the judges and registers of probate therein are judges and registers thereof. Said courts have original jurisdiction in their respective counties of all cases of insolvency arising under this chapter, except where it is otherwise specially provided.

Sessions.
R. S., c. 70, § 2.
—may be adjourned from time to time.

SEC. 2. Each court shall be held at the established places for holding probate courts, at such times as the judge appoints, and may be held at such other places as best promote the convenience of the public within the respective counties. The judge may adjourn any court or meeting from time to time as occasion requires.

Acts in vacation.
R. S., c. 70, § 3.

SEC. 3. The judge may, in vacation, do such official acts as do not require notice to an adverse party, the same as in term time.

Powers and duties of judge.
R. S., c. 70, § 4.

SEC. 4. The judge may keep order in his court, and punish any contempt of his authority, orders and decrees; administer oaths, issue commissions, take testimony and compel the attendance of witnesses, and the giving of testimony, to the same extent as the supreme judicial court, and may appoint such officers to attend upon the court as are necessary for the transaction of its business and keeping order therein.

Records, how to be made, and files kept.
R. S., c. 70, § 5.
81 Me., 171.

SEC. 5. The proceedings in courts of insolvency are matters of record, and the assignment, and certificate of discharge shall be recorded in full. The other proceedings need not be recorded at large, but shall be carefully filed, numbered and kept in the office of the register. Copies of all parts of the records, and of records of prior proceedings in insolvency

—office copies admissible as evidence.