

MAINE STATE LEGISLATURE

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an executor, administrator, guardian of an adult, or conservator, the register of probate shall cause public notice of such appointment and the date of qualification to be given, and shall enter upon the docket the name of the newspaper and the date of the 1st publication. Such notice may be given in a list showing the name of the estate, the name and residence of each person appointed and, in each case where an agent has been appointed, the name and residence of such agent. Such executor, administrator, guardian, or conservator may be required to give such further notice of his appointment as the judge may order. At the time of his qualification, such executor, administrator, conservator, or guardian of an adult shall pay to the register of probate the cost of such public notice, together with such reasonable fee for such additional duty as may be fixed by the judge, and he shall be allowed said sums in his account.

An executor, administrator, guardian of an adult, or conservator shall be deemed to be qualified when his bond has been filed and approved by the judge of probate; provided, however, that in cases where no bond is required the date of appointment shall be deemed to be the date of qualification.

CHAPTER 141.

EXECUTORS AND ADMINISTRATORS.

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Limitations

Sec. 1. Limitation as to minimum amount of property; as to period of time since death. R. S. c. 76, § 1. No administration shall be granted on the estate of any intestate deceased person, unless it appears to the judge that he left personal estate to the amount of at least \$20, or owed debts to that amount, and left real estate of that value; and when no administration is granted for want of such estate, the personal property of the deceased becomes the property of the widow, or, if none, of the next of kin, who are not, in such case, chargeable as executors in their own wrong. After 20 years from the death of any person, no probate of his last will or administration on his estate shall be originally granted except as provided in the following section, unless it appears that there are moneys due to said estate from this state or the United States; but this does not apply to foreign wills previously proved and allowed in another state or country.

22 Me. 553; 52 Me. 196; 63 Me. 379; 80 Me. 54; 81 Me. 32, 225.

Sec. 2. Administration on estate of an intestate may be taken in certain cases after 20 years from death. R. S. c. 76, § 2. When administration has not been taken on the estate of an intestate within 20 years after the death of such intestate, and thereafter any property of at least \$20 in value accrues to said estate, or belonging thereto, first comes to the knowledge of any person interested in said estate, original administration may be granted on such property, at any time within 2 years next after it so accrued or first became known, but such administration shall affect no other property and shall not revive debts due to or by said intestate.

Wills and Executors

See c. 106, § 1, sub-§ VII, re statute of frauds.

Sec. 3. Wills may be deposited in the registry of probate; proceedings after death of testator. R. S. c. 76, § 3. A will may be deposited for safe-keeping in the registry of probate in the county where the testator lives; and the register, on being paid \$1, shall receive and keep it and give a certificate of the deposit thereof. Such will shall be enclosed in a sealed wrapper, indorsed with the name and residence of the testator, and the date when deposited, and may have indorsed thereon the name of any person to whom it is to be delivered after the death of the testator, and shall not be opened nor read until delivered to the testator, or to some person authorized to receive it by a written order signed by the testator and attested by 1 witness, and the register may require the person presenting the same to make oath that it is genuine. After the testator's death the will shall be delivered to the person, if any, entitled by the indorsement on the wrapper to receive it; or, if not demanded before the next probate court thereafter, it may then be publicly opened and retained in the probate office until offered for probate; but, if the jurisdiction of the estate belongs in another court, it shall be delivered to the executors or other persons entitled to its custody, to be presented for probate in such other court.

Sec. 4. Duty of executors and others having custody of wills. R. S. c. 76, § 4. Whoever has the custody of a will shall, after the testator's death, deliver it into the probate court having jurisdiction thereof, or to the executor therein named; and any executor, having such will in his custody; shall file it in such court. If such executor or other person, having been duly cited for that purpose, neglects to do so, without reasonable cause, for 30 days after notice of the testator's death, he may be committed to jail by the judge's warrant, there to be kept in close custody until he so delivers the will, or is released by the judge or otherwise by order of law; and he is also liable to any party for the damage which he has sustained by such neglect.

5 Me. 493; 6 Me. 276; 52 Me. 172; 80 Me. 57; 118 Me. 112, 464; 126 Me. 534.

Sec. 5. Public notice of hearing on petitions for probate of wills. R. S. c. 76, § 5. Whenever a will is presented for probate, the judge of probate having jurisdiction thereof shall assign a time and place for a hearing, and cause public notice thereof to be given; and in addition thereto, said judge may, at his discretion, order personal notice upon such persons as he deems necessary.

118 Me. 464.

Sec. 6. Depositions may be taken. R. S. c. 76, § 6. When any of the witnesses of a will offered for probate live out of the state or more than 30 miles distant or, by age or indisposition of body, are unable to attend court, their depositions, taken as provided in chapter 104 or before a magistrate authorized

by commission from the judge, shall be competent evidence in the absence of such witnesses.

46 Me. 247.

Sec. 7. If no objection to a will, 1 witness or 1 deposition only may be required. R. S. c. 76, § 7. When it clearly appears to the judge by the written consent of the heirs at law or otherwise that there is no objection thereto, he may decree the probate of any will upon the testimony of one or more of the 3 subscribing witnesses required by law, who can substantiate all the requisite facts, and the affidavit of such witness or witnesses taken before the register of probate may be received as evidence; or, in the cases described in the preceding section, upon the depositions of one or more of the subscribing witnesses, substantiating the facts.

See c. 155, § 15, re will to be effective must be proved and allowed.

Sec. 8. When letters testamentary may be granted. R. S. c. 76, § 8. When a will is proved and allowed, the judge of probate may issue letters testamentary thereon to the executor named therein, if he is legally competent, accepts the trust, and gives bond to discharge the same when required; but if he refuses to accept on being duly cited for that purpose, or if he neglects for 20 days after probate of the will so to give bond, the judge may grant such letters to the other executors if there are any capable and willing to accept the trust.

See § 38; 46 Me. 237, 248; 101 Me. 75; 102 Me. 305; *105 Me. 246; *124 Me. 290.

Sec. 9. Wills lost or carried out of the state, how to be proved; time during which will is lost, not to be taken as part of statute limitation. R. S. c. 76, § 9. When the last will of any deceased person, who had his domicile in the state at the time of his death, is lost, destroyed, suppressed, or carried out of the state, and cannot be obtained after reasonable diligence, or is in the custody of any tribunal or magistrate in another state or in a foreign country, and cannot be produced in this state, its execution and contents may be proved by a copy, and by the testimony of the subscribing witnesses thereto, or by any other evidence competent to prove the execution and contents of a will, and upon proof of the continued existence of such lost will, unrevoked up to the time of the testator's death, letters testamentary shall be granted as on the last will of the deceased, the same as if the original had been produced and proved. When such original will is produced for probate, the time during which it has been lost, suppressed, concealed, or carried out of the state shall not be taken as a part of the limitation provided in section 1.

73 Me. 603; *80 Me. 54; 93 Me. 296; *101 Me. 76; *114 Me. 338; 116 Me. 481.

Sec. 10. Wills may prescribe what bond executor shall give. R. S. c. 76, § 10. Letters testamentary may issue, and all acts required by law or otherwise under the provisions of the will may be done and performed by the executor without giving bond, or by his giving one in a specified sum, or without sureties, when the will so provides; but when it appears necessary or proper, the judge may require him to give bond with sureties as in other cases.

See § 55; 84 Me. 482; 93 Me. 362, 374; 105 Me. 246.

Sec. 11. Bond of executor. R. S. c. 76, § 11. Every executor before entering on the execution of his trust shall give bond, except when otherwise provided in the will, with sufficient sureties resident in the state, or with a surety company authorized to do business in the state, as surety, in such sum as the judge orders, payable to him or his successors, conditioned, in substance, as follows:

I. To make and return to the probate court, within 3 months, a true inventory of all the real estate, and all the goods, chattels, rights, and credits of the testator, which are by law to be administered, and which come to his possession or knowledge.

II. To administer, according to law and to the will of the testator, all his goods, chattels, rights, and credits.

III. To render, upon oath, a just and true account of his administration within 1 year, and at any other times, when required by the judge of probate.

IV. To account, in case the estate should be represented insolvent, for 3 times the amount of any injury done to the real estate of the deceased by him, or with his consent, between such representation and the sale of such real estate for the payment of debts, by waste or trespass committed on any building thereon, or on any trees standing and growing thereon, except as necessary for repairs or fuel for the family of the deceased; or by waste or trespass of any other kind; and for such damages as he recovers for the like waste or trespass committed thereon.

See c. 55, § 86, re organization and powers of trust companies; c. 56, § 193, re foreign insurance companies as sureties on bonds; c. 111, § 17, re liability of executor for waste; 46 Me. 248; 54 Me. 456; 56 Me. 301; 60 Me. 416; 77 Me. 157; 84 Me. 146.

Sec. 12. What executors may act; powers of majority. R. S. c. 76, § 12. When two or more persons are named executors in any will and are not released thereby from giving bonds, none shall act as such, or intermeddle, except those who give bonds as aforesaid; but a majority of those legally qualified, unless it is otherwise prescribed therein, may do all the acts in the execution of such trust, which all could do, and all acts so done are as valid in law as if all had agreed thereto; and a suit may be maintained against the executors, so acting, on their bond, for the benefit of any person aggrieved by their acts, without joining the other parties to such bond.

54 Me. 456; 84 Me. 146.

Wills Made in Other States or Countries

Sec. 13. Wills made in other states or countries, proved and allowed here. R. S. c. 76, § 13. Any will executed in another state or country, according to the laws thereof, may be presented for probate in this state, in the county where the testator resided at the time of his death, and may be proved and allowed, and the estate of the testator settled, as in case of wills executed in this state.

See § 82; 84 Me. 146; 85 Me. 378; 105 Me. 245.

Sec. 14. Wills proved in other states or countries, allowed in this state; effect. R. S. c. 76, § 14. A will proved and allowed in another state or country, according to the laws thereof, may be allowed and recorded in this state in the manner and for the purposes hereinafter mentioned. A copy of the will and the probate thereof, duly authenticated, shall be produced by the executor, or by any person interested, to the judge of probate in any county in which there is estate, real or personal, on which the will can operate; whereupon the judge shall assign a time and place for hearing and cause public notice thereof to be given. After such hearing, if the judge considers that the instrument should be allowed in this state as the will of the deceased, he shall order the copy to be filed and recorded. Such will shall then have the same force as if it had been originally proved and allowed in the same court in the usual manner; but nothing herein

shall give any operation and effect to the will of an alien different from what it would have had if originally proved and allowed in this state.

4 Me. 138; 12 Me. 131; 85 Me. 378; 92 Me. 177; 101 Me. 547; *110 Me. 471; 123 Me. 24; 135 Me. 84.

Sec. 15. Foreign wills from states and countries not requiring probate; notarial wills. R. S. c. 76, § 15. When a duly authenticated copy of a will from any state or country where probate is not required by the laws of such state or country, with a duly authenticated certificate of the legal custodian of such original will that the same is a true copy, and that such will has become operative by the laws of such state or country, and when a copy of a notarial will in possession of a notary in a foreign state or country entitled to the custody thereof, the laws of which state or country require that such will remain in the custody of such notary, duly authenticated by such notary, is presented by the executor or other persons interested to the proper court in this state, such court shall appoint a time and place of hearing and notice thereof shall be given as in case of an original will presented for probate. If it appears to the court that the instrument ought to be allowed in this state as the last will and testament of the deceased, the copy shall be filed and recorded and the will shall have the same effect as if originally proved and allowed in the said court.

Sec. 16. Letters may be granted and the estate settled. R. S. c. 76, § 16. After allowing and recording any will as aforesaid, the judge of probate may grant letters testamentary, or of administration with the will annexed thereon, and proceed in the settlement of the estate found in this state in the manner provided by its laws with respect to the estates of persons who were inhabitants of any other state or country; and the letters thus granted shall extend to all the estate of the deceased within this state, and exclude the jurisdiction of the probate court in every other county. Such administration may be granted in any county in which lands of the testator, subject to the operation of his will, remain undisposed of for more than 20 years from his decease. The provisions of section 10 apply to such proceedings; or the court may, upon issuing letters testamentary, require such bond, with or without sureties, as may have been required by the court before which such will was originally approved and allowed.

85 Me. 378; 101 Me. 547; 105 Me. 245; 135 Me. 84.

Nuncupative Wills

Sec. 17. Nuncupative wills may be approved; notice. R. S. c. 76, § 17. No letters testamentary or probate of any nuncupative will shall pass the seal of any court of probate until 14 days after the decease of the testator; nor shall such will be approved and allowed at any time, unless due notice is given to all persons interested specifying that the will to be proved is a nuncupative will.

See c. 155, §§ 18-20, re nuncupative wills.

Administrators

Sec. 18. Grant of administration on the estates of persons deceased, intestate. R. S. c. 76, § 18. Upon the death of any person intestate, the judge having jurisdiction shall grant administration of such intestate's goods or estate to the widow, husband, next of kin, or husband of the daughter of the deceased, or to two or more of them, as he thinks fit, if the applicants are more than 21 years old

and are in other respects qualified for the trust, but if unsuitable, or being residents in the county, they after due notice neglect or refuse for 30 days from the death of the intestate to take out letters of administration, he may commit administration on such estate to such person as he deems suitable.

See c. 163, § 8, re administrator may be appointed to redeem real estate; 22 Me. 553; 32 Me. 103; 102 Me. 305.

Sec. 19. Administration on estates of persons civilly dead. R. S. c. 76, § 19. When any person is under sentence of death or of imprisonment for life and is confined in pursuance thereof, he is, from the time of such imprisonment, to all intents and purposes, civilly dead; and his estate shall be administered upon and distributed, and his contracts and relations to persons and things are affected, in all respects, as if he were dead.

*47 Me. 469; *74 Me. 238; 131 Me. 228.

Sec. 20. Administration granted without bond, under certain conditions. R. S. c. 76, § 20. A judge of probate may in his discretion grant administration or administration with the will annexed, upon any estate, to the widow, widower, or next of kin, without requiring bond for the faithful discharge of the duties of the trust, whenever all persons interested in said estate who are of full age and legal capacity, other than creditors, assent in writing thereto; provided that public notice shall first be given upon the petition for such appointment. The judge of probate may, however, upon or after granting letters of administration or letters of administration with the will annexed, whenever it appears necessary or proper, require that a bond be given as in other cases.

Sec. 21. Appointment of administrators, if judge of probate refuses or delays. R. S. c. 76, § 21. If any judge of probate shall refuse or unreasonably delay the appointment of an administrator upon the estate of any person deceased upon due application therefor, an application may be made to the superior court sitting in the county where the person deceased had his residence at the time of his death, or to any judge thereof in vacation, for such appointment; and said court or such judge shall have the same power to appoint an administrator as the probate court now has.

135 Me. 363.

Sec. 22. Bonds of administrators. R. S. c. 76, § 22. Except when a bond is not required as provided in section 20, every administrator, before entering on the execution of his trust, shall give bond with good and sufficient sureties resident within the state, or with a surety company authorized to do business in the state, as surety, in such sum as the judge orders, payable to him or his successors, conditioned in substance as follows:

I. To make and return into the probate court, within 3 months, a true inventory of all the real estate and all the goods, chattels, rights, and credits of the deceased, which come into his possession or knowledge.

II. To administer according to law all the goods, chattels, rights, and credits of the deceased.

III. To render, upon oath, a true account of his administration within 1 year, and at any other times when required by the judge of probate.

IV. To pay and deliver any balance, any goods and chattels, or rights and credits, remaining in his hands upon the settlement of his accounts, to such persons as the judge of probate directs.

V. To deliver the letters of administration into the probate court in case any will of the deceased is thereafter proved and allowed.

VI. To account, in case the estate should be represented insolvent, for 3 times the amount of any injury done to the real estate of the deceased by him, or with his consent, between such representation and the sale of such real estate for the payment of debts, by waste or trespass committed on any building thereon, or on any trees standing and growing thereon, except as necessary for repairs or fuel for the family of the deceased; or by waste or trespass of any other kind; and for such damages as he recovers for the like waste or trespass committed thereon.

See c. 56, § 193, re foreign insurance companies as sureties on bonds; c. 111, § 17, re liability of administrator for waste; 62 Me. 308; 65 Me. 471; 93 Me. 296; 105 Me. 389; 121 Me. 348.

Sec. 23. Administration upon estates of persons who have disappeared and have not been heard from for at least 7 years. R. S. c. 76, § 23. If a person entitled to or having an interest in personal property within the jurisdiction of this state has disappeared from the place within this state where he was last known to be or resided, and his disappearance is followed by a continued absence for a period of not less than 7 years from the date of disappearance, during which period he is unheard from; and a petition is made to the probate court in the county in which said person last resided, or in which he left said property of the value of at least \$20, which petition shall allege the disappearance, continued absence, and presumption of death of said person and request the allowance of the will of said person, if he left one, or the appointment of an administrator, if he is alleged to have died intestate; and the said probate court, after notice and hearing thereon, shall issue letters testamentary or of administration upon his estate; then any payment due the estate of said person made to the executor or administrator thereof shall be valid, and the receipt or release given by said executor or administrator shall be a bar to any further or other action therefor.

132 Me. 63.

Estates of Absentees

Sec. 24. Estates of absentees, provisions for. 1937, c. 185, § 1. If a person entitled to or having an interest in property within the jurisdiction of the state has disappeared or absconded from the place within or without the state where he was last known to be, and has no agent in the state, and it is not known where he is, or if such person, having a wife or minor child dependent to any extent upon him for support, has thus disappeared or absconded without making sufficient provision for such support, and it is not known where he is, or, if it is known that he is without the state, anyone who would under the law of the state be entitled to administer upon the estate of such absentee if he were deceased, or if no one is known to be so entitled, any creditor, or such wife, or someone in her or such minor's behalf, may file a petition under oath in the probate court for the county where such property is situated or found, stating the name, age, occupation, and last known residence or address of such absentee, the date and circumstances of the disappearing or absconding, and the names and residences of other persons, whether members of such absentee's family or otherwise, of whom inquiry may be made, and containing a schedule of the property, real and personal, so far as known, and its location within the state, and praying that such property may be taken possession of, and a receiver thereof appointed under the provisions of sections 24 to 37, inclusive.

Sec. 25. Court may issue warrant. 1937, c. 185, § 2. The court may thereupon issue a warrant, directed to the public administrator in the county where the property or some of it is situated, which may run throughout the state, commanding him to take possession of the property named in said schedule and make return of said warrant as soon as may be with his doings thereon with a schedule of the property so taken. The public administrator shall cause so much of the warrant as relates to land to be recorded in the registry of deeds for the county where the land is located. He shall receive such fees for serving the warrant as the court allows, but not more than those established by law for similar service upon a writ of attachment. Fees and the costs of publishing and serving the notice hereinafter provided shall be paid by the petitioner; if a receiver is appointed, said fees shall be repaid by the receiver to the petitioner and allowed the receiver in his account.

Sec. 26. Notice. 1937, c. 185, § 3. Upon the return of such warrant, the court may issue a notice reciting the substance of the petition, warrant, and return, which shall be addressed to such absentee and to all persons who claim an interest in said property, and to all to whom it may concern, citing them to appear at a time and place named and show cause why a receiver of the property named in the schedule should not be appointed and said property held and disposed of under the provisions of sections 24 to 37, inclusive.

Sec. 27. Publication of notice. 1937, c. 185, § 4. The return day of said notice shall be not less than 30 days nor more than 60 days after its date. The court shall order said notice to be published once in each of 3 successive weeks in one or more newspapers within the said county and a copy to be mailed to the last known address of such absentee. The court may order other and further notice to be given within or without the state.

Sec. 28. Hearing. 1937, c. 185, § 5. The absentee or any person who claims an interest in any of the property may appear and show cause why the prayer of the petitioner should not be granted. The court may, after hearing, dismiss the petition and order the property in possession of the public administrator to be returned to the person entitled thereto, or it may appoint the person who, under the law of the state, would be entitled to administer upon the estate of such absentee if he were deceased, or if no such person is known or such person declines to serve, then he may appoint the public administrator for said county as receiver of the property which is in the possession of the public administrator and named in his schedule. If a receiver is appointed, the court shall find and record the date of the disappearance or absconding of the absentee and such receiver shall give bond to the judge of probate and his successors in office in such sum and with such condition as the court orders.

Sec. 29. When receiver may take property. 1937, c. 185, § 6. After the approval of such bond, the court may order the public administrator to transfer and deliver to such receiver the possession of the property under the aforesaid warrant, and the receiver shall file in the registry of probate a schedule of the property received by him.

Sec. 30. Power of receiver to collect debts. 1937, c. 185, § 7. Such receiver shall take possession of any additional property within the state which belongs to such absentee and demand and collect all debts due such absentee from any person within the state and hold the same as if it had been transferred and delivered to him by the public administrator. Provided that if he takes any

additional real estate said receiver shall file a certificate describing said real estate with the register of deeds for the county where the real estate is located.

Sec. 31. Appointment of receiver. 1937, c. 185, § 8. If such absentee has left no corporeal property within the state, but there are debts or obligations due or owing to him from persons within the state, a petition may be filed as provided in section 24, stating the nature and amount of such debts and obligations, so far as known, and praying that a receiver thereof may be appointed. The court may thereupon issue a notice as above provided, without issuing a warrant, and may, upon the return of said notice and after a hearing, dismiss the petition or appoint a receiver and authorize and direct him to demand and collect the debts and obligations of said absentee. Said receiver shall give bond as provided in section 28, and shall hold the proceeds of such debts and obligations and all property received by him and distribute the same as hereinafter provided.

Sec. 32. Procedure in case perishable property is involved. 1937, c. 185, § 9. The court may make orders for the care, custody, leasing, and investing of all property and its proceeds in the possession of the receiver. If any of the said property consists of live animals or is perishable or cannot be kept without great or disproportionate expense, the court may, after the return of the warrant, order such property to be sold at public or private sale. After the appointment of a receiver, upon his petition, the court may order all or part of said property, including the rights of the absentee in land, to be sold at public or private sale to supply money for payments authorized by sections 24 to 37, inclusive, or for reinvestment approved by the court.

Sec. 33. Support of dependents. 1937, c. 185, § 10. The court may order said property or its proceeds acquired by mortgage, lease, or sale to be applied in payment of charges incurred or that may be incurred in the support and maintenance of the absentee's wife and dependent children, and to the discharge of such debts and claims for alimony as may be proved against said absentee.

Sec. 34. Arbitration of claims. 1937, c. 185, § 11. The court may authorize the receiver to adjust by arbitration or compromise any demand in favor of or against the estate of such absentee.

Sec. 35. Receiver, compensation; when duties end. 1937, c. 185, § 12. The receiver shall be allowed such compensation and disbursements as the court orders, to be paid out of said property or proceeds. If within 14 years after the date of the disappearance and absconding as found and recorded by the court, such absentee appears, or an administrator, executor, assignee in insolvency, or trustee in bankruptcy of said absentee is appointed, such receiver shall account for, deliver, and pay over to him the remainder of said property. If said absentee does not appear and claim said property within said 14 years, all his right, title, and interest in said property, real or personal, or the proceeds thereof, shall cease, and no action shall be brought by him on account thereof.

Sec. 36. End of receivership. 1937, c. 185, § 13. If at the expiration of said 14 years said property has not been accounted for, delivered, or paid over under the provisions of the preceding section, the court shall order the distribution of the remainder to the persons to whom, and in the shares and proportions in which, it would have been distributed if said absentee had died intestate within

the state on the day 14 years after the date of the disappearance or absconding as found and recorded by the court, except that said receiver shall deduct from the share of each distributee and pay to the attorney-general for the use of the state such amount as said distributee would have paid in an inheritance tax to the state if said distributee had received the property by inheritance from a deceased resident of this state.

Sec. 37. Limiting clause. 1937, c. 185, § 14. If such receiver is not appointed within 13 years after the date found by the court under the provisions of section 28, the time limited to accounting for, or fixed for distributing, said property or its proceeds, or for barring actions relative thereto, shall be 1 year after the date of the appointment of the receiver instead of the 14 years provided in the 2 preceding sections.

Administrators with the Will Annexed, and De Bonis Non

Sec. 38. Administrator with the will annexed, when to be appointed. R. S. c. 76, § 24. If there is no person whom the judge can appoint executor of any will according to the provisions of section 8; or, if the only one appointed neglects to file the required bond within the time therein allowed, he may commit administration of the estate, with the will annexed, to any suitable person having regard to the best interests of the persons interested under such will; and when an executor is under 21 years of age at the time of the probate of the will, administration may be granted, with the will annexed, during his minority, unless there is another executor who accepts the trust, in which case the estate shall be administered by such other executor until the minor arrives at full age, when he may be admitted as joint executor with the former, upon giving bonds as before provided.

*78 Me. 141; 102 Me. 305.

Sec. 39. Removal of executors or administrators; judge may commit administration to other persons. R. S. c. 76, § 25. When an executor or administrator residing out of the state, after being ordered by the judge of probate, neglects to render his accounts and settle the estate according to law, or when any executor or administrator, joint or sole, becomes insane or otherwise unsuitable to perform the trust, refuses or neglects to do so, or mismanages the estate, said judge may remove him; and he may accept the resignation of any joint or sole executor or administrator when he is satisfied, after public or personal notice to those interested and a hearing, that there is reasonable cause therefor and that it will not be detrimental to the estate or to those interested therein; and in either case, if there is no other executor or administrator to discharge the trust, the judge may commit administration of the estate not already administered, with the will annexed or otherwise, as the case requires, to such persons as he thinks fit, as if the one resigned or removed were dead; and such administrator shall have the same powers and be liable to the same obligations as other administrators or executors whom he succeeds. An appeal from the decree of removal of an executor or administrator shall not suspend or vacate the decree pending decision by the supreme court of probate.

116 Me. 212; 121 Me. 302; 122 Me. 317.

Sec. 40. Authority of administrators de bonis non. R. S. c. 76, § 26. An administrator de bonis non shall collect and receive from his predecessor or his heirs, executors, or administrators, and from all other sources, all the property

and assets of the estate of the deceased, including the proceeds from the sale of real estate, not already distributed, and shall account for and distribute the same as though he were the original administrator or executor; and all sums recovered on any probate bond shall be a part of the estate, but so much thereof as is recovered on any real estate bond shall be distributed as is provided for the distribution of the proceeds of the sale of real estate.

113 Me. 357; 117 Me. 311; 123 Me. 401.

Sec. 41. Marriage of executrix or administratrix. R. S. c. 76, § 27. When an unmarried woman who is joint or sole executrix or administratrix marries, her husband shall not exercise such trust in her right, nor is her authority thereby extinguished.

56 Me. 302; 63 Me. 432.

Sec. 42. Death of executor. R. S. c. 76, § 28. The executor of an executor has no authority, as such, to administer the estate of the first testator; but on the death of the sole or surviving executor of any last will, administration of said estate not already administered may be granted with the will annexed, to such person as the judge thinks fit.

64 Me. 422; *117 Me. 311.

Sec. 43. Bond of administrator with the will annexed, and de bonis non. R. S. c. 76, § 29. Except when a bond is not required as provided in section 20, every person appointed administrator with the will annexed shall, before entering upon the execution of his trust, give such bond to the judge as is required of an executor. Every administrator de bonis non shall give such bond as is required of an executor or administrator, as the case may demand.

*78 Me. 141.

Public Administrators

Sec. 44. Appointment, duty, and bonds of public administrators. R. S. c. 76, § 30. The governor, with the advice and consent of the council, shall appoint in each county for the term of 4 years, unless sooner removed, a public administrator therein, who shall, upon petition to the probate court and after due notice thereon, take out letters of administration and administer on the estates of persons who die intestate in said county, not known to have in the state a widow, widower, or any heirs or kindred who can lawfully inherit such estate; and who shall account in like manner and give bond to the judge with like condition as in cases of ordinary administration, subject, however, to the provisions of the following section; and provided also that if any widow, widower, or next of kin of said deceased shall, prior to the issuing of letters of administration to said public administrator, file a petition in probate court asking that said administration be granted to said widow, widower, or next of kin, or to any other person designated by them, the said probate court after due notice shall appoint an administrator as prayed for in said petition.

See *Rocca v. Thompson* 223 U. S. 314, 317 on rights of vice-consuls.

Sec. 45. When the judge may revoke his powers. R. S. c. 76, § 31. If, before the estate of such deceased in the hands of the public administrator is fully settled, any last will and testament of such deceased is produced and duly proved, or if any heirs, next of kin, widow, or widower of such deceased makes application in writing to the judge having jurisdiction of the estate, and claims the right to administer thereon or to have some other suitable person appointed

to that trust, the judge shall revoke the former administration and grant letters testamentary, or new administration, as the case requires; and thereupon the public administrator shall surrender his letters of administration to such judge, settle his account, and deliver to his successor all sums of money in his hands, and all goods, chattels, rights, and credits of said deceased not administered upon.

Sec. 46. Balance in his hands, how distributed. R. S. c. 76, § 32. When there is in the hands of such public administrator an amount of money more than is necessary for the payment of the deceased's debts and for other purposes of administration, if no widow, widower, or heirs of said deceased have been discovered, said administrator shall be required by the judge to deposit it with the treasurer of state, who shall receive it; the state shall be responsible for the principal thereof, for the benefit of those who may lawfully claim it; and the governor and council, on application and proof, may order the treasurer to pay it over, and such principal is appropriated to pay such lawful claims.

If during the process of administration of such estate any widow, widower, or heirs of said deceased are discovered, then the probate court shall order distribution of the estate in the same manner as in the case of ordinary administration.

Sec. 47. Notice to be given to treasurer. R. S. c. 76, § 33. In all cases where the public administrator is ordered to pay the balance of the estate to the treasurer of state, the judge shall give notice to the treasurer of state of such amount and from what estate it is receivable; and if said administrator neglects, for 3 months after the order of the judge therefor, to deposit the same, the said treasurer shall cause his probate bond to be put in suit for the recovery thereof.

Sec. 48. Balance, not claimed in 20 years, to be forfeited to state. R. S. c. 76, § 34. If the heirs, widow, or next of kin to any such intestate, or other lawful claimants do not demand such money within 20 years from the time of its deposit, it shall be forfeited to the state.

Special Administrators

Sec. 49. Appointment of special administrator; bond. R. S. c. 76, § 35. When there is a delay in granting letters testamentary or of administration, the judge of probate may appoint a special administrator who shall, notwithstanding any pending appeal, proceed in the execution of his duties until it is otherwise ordered by the supreme court of probate, and if, for any cause other than an appeal, the judge of probate decides that it is necessary or expedient, he may at any time and place, with or without notice, appoint a special administrator; and he shall give bond like other administrators, conditioned that he will make and return into the probate court within 3 months a true inventory of all the goods, chattels, rights, and credits of the deceased which come to his possession or knowledge; and that he will truly account for them under oath and deliver them to the person authorized to receive them. When, by reason of the removal or discharge of executors or administrators, and appeals from the decrees of removal or discharge, there is no executor or administrator to act, the judge may appoint a special administrator who shall have the same powers and perform the same duties, as other special administrators, until such appeals are disposed of and some executor or administrator may legally act.

See P. & S. L. 1909, c. 299, re burned records of Cumberland county; *76 Me. 473; 102 Me. 166.

Sec. 50. Powers and duties. R. S. c. 76, § 36. The special administrator shall collect all the goods, chattels, and debts of the deceased, control and cause to be improved all his real estate, collect the rents and profits thereof, and preserve them for the executor or administrator thereafter appointed; and for that purpose may maintain suits, and sell such perishable and other goods as the judge orders; and shall have such powers to vote stock owned by the deceased as the deceased would have if living, at all corporation meetings, and the authority to sell and transfer any specific rights which may have accrued to the estate of said deceased as such stockholder and the judge may authorize and direct that the business of the deceased, in whole or in part, shall for a limited time, to be determined by him, be carried on by such special administrator as a going business; pay the expenses of the funeral and last sickness, and of his administration; debts preferred under the laws of the United States; public rates and taxes, and money due the state from the deceased; and pay to the widow, if any, and if not, to the guardian of the children under 14 years of age, for their temporary support, such sums as the judge orders, having regard to the state and the amount of the property; and sums so paid to the widow or guardian shall be deducted, if the estate is solvent, from the share of the widow or children, but if insolvent, shall be considered by the judge in his allowance to them.

See § 66, re carrying on business etc.; 63 Me. 355; 76 Me. 473; 102 Me. 166; 134 Me. 333.

Sec. 51. Compensation; when powers cease; proceedings. R. S. c. 76, § 37. The special administrator shall be allowed such compensation for his services as the judge thinks reasonable, not exceeding that allowed to other administrators; and on the granting of letters testamentary or of administration his powers cease and he shall forthwith deliver all the goods, chattels, money, and effects of said deceased in his hands, and the executor or administrator may prosecute any suit commenced by the special administrator as if it had been commenced by himself.

See c. 140, § 44, re fees of administrators etc.; 111 Me. 320.

Sec. 52. Not to be sued by creditor without decree of judge. R. S. c. 76, § 38. No special administrator is liable to an action by any creditor of the deceased, without an application by such creditor to the judge, and his decree authorizing it; and the limitation of all suits against the estate begins to run from the time of granting letters testamentary or of administration in the usual form, as if such special administration had not been granted.

See c. 152, § 17, re continuance of actions brought within 1 year of qualification of executors etc.

Sec. 53. In certain cases, letters may be granted to executor, pending appeal; proceedings. R. S. c. 76, § 39. When a will has been proved and allowed by the judge of probate and an appeal made therefrom, he may, instead of appointing a special administrator as aforesaid, grant letters testamentary to the executor named in such will, who shall give bond and proceed in the settlement of such estate as if no appeal had been made; and after payment of the just debts and charges of administration, he shall retain in his hands all the remaining avails of such estate to await the result of the case in the supreme court of probate, and then pay the same, under the direction of the judge of probate, to the parties legally entitled thereto.

Executors in Their Own Wrong

Sec. 54. Executors in their own wrong; liability. R. S. c. 76, § 40. Whoever sells or embezzles any of the goods or effects of a deceased person liable to administration, before taking out letters testamentary or of administration thereon and giving bond accordingly, is liable as an executor in his own wrong, to the actions of the creditors and other persons aggrieved, and also to the rightful executor or administrator for the full value of the goods or effects of the deceased taken by him and for all damages caused by his acts to said estate; and he shall not retain any part of the goods or effects, except for such funeral expenses, debts of the deceased, or other charges actually paid by him, as the rightful executor or administrator would have had to pay.

15 Me. 117; *48 Me. 349; 54 Me. 482; 57 Me. 25; 58 Me. 435; 65 Me. 420; 70 Me. 341; 87 Me. 325.

Provisions Relating to Both Executors and Administrators

Sec. 55. Application that no bond be required, to be stated in petition and in public notice on petition. R. S. c. 76, § 41. Letters testamentary shall not issue under the provisions of section 10, nor shall administration or administration with the will annexed be granted without bond under the provisions of section 20, unless the petition for probate of the will or for administration contains an application that no bond, or a bond without sureties, be required, and the fact of such application is stated in the public notice on such petition.

Sec. 56. Non-resident executors or administrators to appoint agent or attorney in state. R. S. c. 76, § 42. No person residing out of the state shall be appointed an executor or administrator unless he shall have appointed an agent or attorney in the state. Such appointment shall be made in writing and shall give the name and address of the agent or attorney. Said written appointment shall be filed and recorded in the probate office for the county in which the principal is appointed, and by such appointment the subscriber shall agree that the service of any legal process against him as such executor or administrator, or that the service of any such process against him in his individual capacity in any action founded upon or arising out of any of his acts or omissions as such executor or administrator shall, if made on such agent, have like effect as if made on himself personally within the state, and such service shall have such effect. An executor or administrator who after his appointment removes from and resides without the state shall so appoint an agent within 30 days after such removal. If an agent appointed under the provisions of this section dies or removes from the state before the final settlement of the accounts of his principal, another appointment shall be made, filed, and recorded as above provided; the powers of an agent appointed under the provisions of this section shall not be revoked prior to the final settlement of the estate unless another appointment shall be made as herein provided. Neglect or refusal by an executor or administrator to comply with any provision of this section shall be cause for removal. An executor or administrator residing out of the state shall not appoint his coexecutor or coadministrator, residing in the state, as his agent.

84 Me. 145; *120 Me. 188.

Sec. 57. Inventory; when to be returned. R. S. c. 76, § 43. 1935, c. 78. Every executor or administrator, within 3 months after his appointment, or within such further time not exceeding 3 months as the judge allows, shall

make and return upon oath into the probate court a true inventory of the real estate and of all the goods, chattels, rights, and credits of the deceased which are by law to be administered and which come to his possession or knowledge. If any executor or administrator neglects or refuses to file an inventory of the estate under his charge within said 3 months, or within such further time as the judge may have allowed therefor, he may be cited to file such inventory by the judge upon petition of any surety on the bond or bonds of such executor or administrator or upon the petition of any person interested in the estate.

See c. 148, § 1, re partnership property; 61 Me. 471; *84 Me. 94; 121 Me. 348.

Sec. 58. Appointment of appraisers. R. S. c. 76, § 44. The real estate, goods and chattels, and rights and credits comprised in the inventory shall be appraised by 1 or 3 disinterested persons appointed by the judge or register, and sworn; and when any part of such estate is in another county, the judge or register may appoint appraisers for such county to return an inventory thereof, who shall also be sworn. Only 1 appraiser may be appointed, if in the opinion of the judge or register the nature of the property makes it desirable to do so; otherwise 3 appraisers shall be appointed.

See c. 99, § 57, re appraisal of property under attachment.

Sec. 59. Warrants may be revoked. R. S. c. 76, § 45. Any warrant for the appraisal of an estate may be revoked by the judge for sufficient cause, and a new one issued, if necessary.

Sec. 60. How choses in action shall be appraised. R. S. c. 76, § 46. Such of the credits of the deceased and rights to personal property not in possession, as the appraisers judge to be available as assets, shall be enumerated in a schedule part of said inventory, with the names of the debtors or parties obligated, the sums supposed to be due thereon, and the nature of the rights aforesaid, whether absolute or conditional; and they shall state, in one general sum at the foot of such schedule, the amount which in their judgment may be realized from the same, exclusive of expenses and risk of settlement or collection.

See c. 99, § 57, re appraisal of property under attachment.

Sec. 61. Additional inventories may be required. R. S. c. 76, § 47. The judge may, at any time afterward, when any estate or effects, rights or credits come to the knowledge or possession of any executor or administrator, require of him an additional inventory; appraisers in like manner shall be appointed and sworn; and return shall be made within the time directed by the judge in his warrant.

Sec. 62. Articles to be omitted from inventory. R. S. c. 76, § 48. The following articles shall be omitted in making the inventory, and shall not be administered upon as assets:

I. All the articles of apparel or ornament of the widow, according to the degree and estate of her husband, and the apparel and schoolbooks of minor children of the deceased.

II. The apparel of the deceased, not exceeding \$100 in value, if he left a widow and minor children, or either, in which case she or they are entitled to such apparel.

III. Such provisions and other articles, not exceeding \$50 in value, as have necessarily been consumed in the family of the deceased before the appraisal of such estate.

IV. Any money becoming due on the death of the deceased from an insurance on his life effected by him, after deducting the amount of premium paid therefor within 3 years, with interest, provided that such deceased left a widow, widower, or issue; but such money shall be disposed of as provided by section 21 of chapter 156.

61 Me. 471; 79 Me. 234; 84 Me. 523; 118 Me. 250.

Sec. 63. When additional bonds may be required. R. S. c. 76, § 49. If, after the return of an inventory or in the progress of the settlement of an estate, the judge finds that the bonds given by an executor or administrator are too small in amount, or are insecure for want of responsible sureties, he may require additional or larger bonds or other sureties, and if said executor or administrator does not furnish the same, his authority may be revoked and some other person appointed.

Sec. 64. When sales of personal estate may be ordered; collection of demands sold. R. S. c. 76, § 50. 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 set-off; 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.

Sec. 65. Liability of executors and administrators to account. R. S. c. 76, § 51. Every executor or administrator shall account for the personal property and effects named in the inventory at the appraised value, unless sold under license as provided in the preceding section; but if loss accrues without his fault or negligence, he may be allowed the amount of such loss in his account of administration; and if any goods or effects not sold under license, allowed to the widow, nor distributed to the heirs or devisees, are shown to be of greater value than they were appraised at, he shall account for the difference.

51 Me. 173; *71 Me. 450.

Sec. 66. Compromise of claims; authority to carry on business. R. S. c. 76, § 52. The judge may authorize executors or administrators to adjust, by arbitration or compromise, any claims for money or other property in favor of or against the estates by them represented. Whenever it is made to appear to the judge that it is clearly for the benefit of all parties interested and will result in a material increase of the assets of the estate, the judge may authorize and direct that the business of the deceased, in whole or in part, shall, for a limited time to be determined by him, be carried on by the executor or administrator as a going business.

See § 50, re carrying on business etc.; 26 Me. 538; *55 Me. 124.

Sec. 67. Special commissioners may be appointed on disputed claims. R. S. c. 76, § 53. When one or more claims against the estate of a person deceased, though not insolvent, are deemed by the executor or administrator to be exorbitant, unjust, or illegal, on application in writing to the judge of probate and after notice to the claimants, the judge, if upon hearing he is satisfied that the

allegations in said application are true, may appoint two or more commissioners, who shall, after being duly sworn and after notifying the parties as directed in their commission, meet at a convenient time and place and determine whether any and what amount shall be allowed on each claim, and report to him at such time as he may limit. Sections 5, 6, 7, 8, 12, 13, 14, 15, 16, and 17 of chapter 144 apply to such claims and the proceedings thereon. No action shall be maintained on any claim so committed unless proved before said commissioners; and their report on all such claims shall be final, saving the right of appeal.

See c. 100, § 184, re exemption upon award to creditor by commissioners on a solvent estate; c. 144, § 26, re report of commissioners on exorbitant claims; c. 148, § 6, re commissioners may be appointed on disputed claims of partnership property; c. 152, § 16, re procedure by executor, administrator, and claimant on disputed claims; *61 Me. 239; 67 Me. 116, 225, 459; *71 Me. 162; *109 Me. 66; *115 Me. 339; 120 Me. 488; *130 Me. 171.

Sec. 68. Executor or administrator neglecting to pay debts, guilty of waste. R. S. c. 76, § 54. 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.

134 Me. 456.

Sec. 69. Accounts when rendered; notice and examination. R. S. c. 76, § 55. Every executor or administrator shall render his accounts agreeably to the condition of his bond; and the judge may require him to account when he deems it necessary. Public notice shall be given before the allowance of any such account unless waived by all parties in interest other than creditors. On the examination thereof, the accountant may be interrogated under oath in relation to the same, and such record of his answers shall be made as the judge requires.

See c. 143, § 21, re distribution of personal estate; c. 144, §§ 21, 25, re settling accounts, allowance, and penalty for delay; 18 Me. 58; 27 Me. 83; 49 Me. 409, 562; 64 Me. 356; 65 Me. 448; 95 Me. 526; *105 Me. 389; 122 Me. 316; 123 Me. 398.

Sec. 70. All property received, to be accounted for. R. S. c. 76, § 56. Every executor and administrator is chargeable in his account with all goods, chattels, rights, and credits of the deceased which come to his hands and are by law to be administered, whether included in the inventory or not; with all the proceeds of real estate sold for the payment of debts, legacies, and incidental expenses and with all the interest, profit, and income that in any way come to his hands in his said capacity from any estate of the deceased.

39 Me. 18; 49 Me. 66; *62 Me. 308; 132 Me. 321; 137 Me. 202.

Sec. 71. Also income of real estate used. R. S. c. 76, § 57. If any part of the real estate is used or occupied by the executor or administrator, he shall account for the income thereof to the devisees or heirs in the manner ordered by the judge, with the assent of the accountant, and of other parties present at the settlement of his account; and if the parties do not agree on the sum to be allowed, it shall be determined by 3 disinterested persons, appointed for that purpose by the judge, whose award, accepted by the judge, shall be final.

62 Me. 309; *63 Me. 355; 87 Me. 282.

Sec. 72. May insure property. R. S. c. 76, § 58. An executor or administrator may insure, at the expense of the estate, any property of the deceased that becomes assets in his hands, or which he holds in trust by the provisions of a will.

Sec. 73. Allowance for monument or gravestones; for gravestones and funeral expenses of widow. R. S. c. 76, § 59. In the settlement of the accounts of executors and administrators, the judge may allow a reasonable sum for the purchase of a suitable burial lot and for the erection of monuments or gravestones; but in insolvent estates the sum shall be fixed by the judge of probate. On petition of any person interested, the judge of probate may also allow a reasonable sum for the erection of gravestones, for funeral expenses, and expenses of last sickness of the widow of the deceased, provided she dies before the final settlement of her husband's estate and her estate is insufficient for the above purposes.

See c. 140, § 21, re perpetual care of cemetery lots; *124 Me. 28; 131 Me. 211.

Sec. 74. Certain debts and expenses of deceased married woman to be paid. R. S. c. 76, § 60. 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; also all reasonable expenses occasioned by her last sickness.

Sec. 75. Mutual debts of husbands and wives to be paid. R. S. c. 76, § 61. 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.

Sec. 76. Perpetual care of lots may be provided for by executors and administrators. R. S. c. 76, § 62. Executors and administrators may pay to cemetery corporations, or to cities or towns having burial places therein, a reasonable sum of money for the perpetual care of the lot in which the body of their testate or intestate is buried, and the monuments thereon. The judge of probate shall determine, after notice to all parties in interest, to whom the same shall be paid and the amount thereof, and such sum shall be allowed in the accounts of such executors and administrators.

See c. 80, §§ 105-108, re trust funds received by towns; c. 54, §§ 14-19, re trust funds for burying-grounds; c. 140, § 21, re perpetual care of cemetery lots; 131 Me. 211.

Sec. 77. Claims verified by affidavit if required. R. S. c. 76, § 63. Executors or administrators may require any person making a claim against the estate of their testator or intestate to present said claim in writing, supported by the affidavit of the claimant or of some other person cognizant thereof, stating what security the claimant has, if any, and the amount of credit to be given, according to the best of his knowledge and belief.

*72 Me. 345; *119 Me. 468.

Sec. 78. Private claims of executors or administrators, how to be adjusted. R. S. c. 76, § 64. No private claim of an executor or administrator against the estate under his charge shall be allowed in his account, unless particularly stated in writing; if such claim is disputed by a person interested, it may be submitted to referees agreed upon in writing by the interested parties present or their agents or guardians; and the judge may accept or recommit their written report made pursuant to the submission, and decree accordingly.

See c. 144, § 8, re claim of administrator against insolvent estates; *74 Me. 486; *110 Me. 447; 112 Me. 156; *117 Me. 186; 126 Me. 495; 130 Me. 277.

Sec. 79. When one of several executors or administrators is removed or resigns, proceedings. R. S. c. 76, § 65. When there is more than 1 executor

or administrator and either of them is removed or his resignation is accepted by the judge, the others may proceed to discharge the trust reposed in them and may bring actions of account against him and recover, by any proper legal process, such effects and assets as remain in his hands unadministered. Like actions or process may be brought by one executor or administrator against another, when the latter retains an undue proportion of the estate under his charge and refuses either to account to the other, or to pay the debts, legacies, or other charges on such estate, or when the aggrieved executor is a residuary legatee.

Sec. 80. Equitable remedies between coexecutors and coadministrators. R. S. c. 76, § 66. Either the supreme judicial court or the superior court may hear and determine in equity all disputes and controversies between coexecutors and coadministrators, and between their respective legal representatives, in all cases where there is not a plain, adequate, and complete remedy at law; and in such case, the court has the same power and may proceed in like manner as in cases between copartners.

See c. 95, § 4, sub-§ VII, re equity jurisdiction concerning partnership; c. 140, § 2, re equity jurisdiction of courts of probate.

Sec. 81. Previous acts of those removed, when valid. R. S. c. 76, § 67. When letters of administration are revoked or an executor or administrator is removed, all previous sales of real or personal estate made in a legal manner by him and with good faith on the part of the purchaser, and all other acts in due course of administration done by him in good faith remain valid and effectual, and he is accountable in the same manner as if he had not been removed.

Sec. 82. Foreign executors, administrators, guardians, conservators, committees, or trustees may be licensed to collect and receive personal estate. R. S. c. 76, § 68. Any executor, administrator, guardian, conservator of the property of any person living out of the state, committee of the person or property, or trustee duly appointed in another state or in a foreign country and duly qualified and acting, who may be entitled to any personal estate in this state, may file an authenticated copy of his appointment in the probate court for any county in which there is real property of his trust, or, if there is no such real property, in any county in which there is personal estate of his trust or to which he may be entitled, and may upon petition to said court, after due notice to all persons interested, be licensed to collect and receive such personal estate or to sell by public or private sale, or otherwise to dispose of, and to transfer and convey shares in a corporation or other personal property, if the court finds that there is no executor, administrator, guardian, conservator, or trustee appointed in this state who is authorized so to collect and receive such personal estate or to dispose of such shares or other personal property, and that such foreign executor, administrator, guardian, conservator, committee, or trustee will be liable to account for such personal estate or for the proceeds thereof in the state or country in which he was appointed; and that no person resident in this state and interested as a creditor or otherwise objects to the granting of such license or appears to be prejudiced thereby; but no such license shall be granted to a foreign executor or administrator until the expiration of 6 months after the death of his testator or intestate, nor until all inheritance taxes payable to this state, if any, are paid or secured.

See c. 150, § 14, re sales of estates of non-resident owners; *135 Me. 84.

Discovery of Property of Deceased Persons

Sec. 83. Discovery of estate of deceased persons. R. S. c. 76, § 69. Upon complaint by an executor, administrator, heir, legatee, creditor, or other person interested in the estate of a person deceased, against any one suspected of having concealed, embezzled, or conveyed away any money, goods, effects, or real estate of the deceased, or of having fraudulently received any such money, goods, effects, or real estate, or of aiding others in so doing, the judge of probate may cite such suspected person to appear before him to be examined on oath in relation thereto, and he may require him to produce for the inspection of the court and parties, all books, papers, or other documents within his control relating to the matter under examination; such examination shall not extend over a period of time exceeding 20 years before the time said complaint is filed in the probate court.

See c. 140, § 10, re judge of probate may appoint stenographer; c. 151, § 21, re surety on probate bond may cite trust officers for accounting; 7 Me. 470; 47 Me. 85; 57 Me. 25; 72 Me. 232; *80 Me. 152; 104 Me. 495; 116 Me. 212.

Sec. 84. Persons entrusted with estate of deceased may be cited to account. R. S. c. 76, § 70. Upon complaint of any such party that a person entrusted by an executor or administrator with any part of such estate refuses to render to him a full account thereof when required, the judge of probate may cite such person to appear before him and to render a full account under oath of any money, goods, chattels, bonds, accounts, or other papers belonging to such estate, taken into his custody, and of his doings in relation thereto.

See c. 151, § 21, re surety on probate bond may cite trust officers for accounting.

Sec. 85. Penalties for refusal to appear and answer when cited. R. S. c. 76, § 71. If a person duly cited as aforesaid refuses to appear and submit himself to such examination, or to answer all lawful interrogatories, or to produce such books, papers, or documents, the judge shall commit him to jail, there to remain until he submits to the order of the court or is discharged by the complainant or the superior court; and he is also liable to any injured party in an action on the case for all the damages, expenses, and charges arising from such refusal.

See c. 151, § 21, re surety on probate bond may cite trust officers for accounting; c. 88, § 80, re executors, administrators, or other persons authorized to sell goods, chattels, or land, by order of any court or judge of probate, may do so without license from municipal officers; c. 55, § 86, re powers of trust companies to act as administrators and executors; c. 140, § 44, re compensation of executors and administrators; c. 140, § 47, re executors and administrators to pay amount of stenographer's fees.