

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES
VOLUME 4

Place in Pocket of Corresponding
Volume of Main Set

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1959

Chapter 153 of the Revised Statutes shall constitute the first Commission under the statutes, as amended by this act, and shall continue as members of the Commission through December 31, 1956."

Chapter 154.

Executors and Administrators.

Wills and Executors.

Sec. 6. Depositions.—When any of the witnesses of a will offered for probate, or any other witness whose testimony is required to prove the signatures of the testator or of the witnesses of such will, 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 117 or before a magistrate, notary public or justice of the peace authorized by commission from the judge, shall be competent evidence in the absence of such witnesses. (R. S. c. 141, § 6. 1955, c. 4. 1957, c. 103.)

Effect of amendments. — The 1955 amendment inserted in this section the word "or any other witness whose testimony is required to prove the signatures of the testator or of the witnesses of such will." The 1957 amendment inserted the words "notary public or justice of the peace".

Sec. 9. When letters testamentary granted.

The executor named in a will must be legally competent in the opinion of the judge of probate. The question of legal competency is one of determination by the judge. If the opinion of the judge is based upon supporting evidence, it is then not vulnerable to attack by exceptions. In re Royal's Appeal, 152 Me. 242, 127 A. (2d) 484.

Sec. 11. Bond executor shall give.

This statute confers upon the court judicial discretion regarding executor's bonds and when it appears to the judge that it is necessary or proper, he may require an executor to give bond with sureties irrespective of a testator's expressed intention. In re Royal's Appeal, 152 Me. 242, 27 A. (2d) 484.

Administrators.

Sec. 20. Repealed by Public Laws 1959, c. 276.

Estates of Absentees.

Sec. 40. End of receivership.—If at the expiration of said 14 years said property has not been accounted for, delivered or paid over under the provisions of section 39, 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 state tax assessor 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. (R. S. c. 141, § 36. 1957, c. 397, § 55.)

Effect of amendment. — The 1957 amendment substituted "section 39" for "the preceding section", and also substituted "state tax assessor" for "attorney general".

Public Administrators.

Sec. 52. Balance distributed.—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. Any income earned on such funds shall be paid into the general fund as compensation for administration.

(1959, c. 319.)

Effect of amendment.—The 1959 amendment added a new sentence at the end of the first paragraph.

As the rest of the section was not affected by the amendment, it is not set out.

Special Administrators.

Sec. 56. Powers and duties.—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 or widower, 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, widower or guardian shall be deducted, if the estate is solvent, from the share of the widow, widower or children, but if insolvent, shall be considered by the judge in his allowance to them. (R. S. c. 141, § 50. 1955, c. 276.)

Effect of amendment.—The 1955 amendment inserted the words "or widower" in

line fourteen and the word "widower" in lines seventeen and eighteen.

Chapter 155.

Inheritance, Succession and Estate Taxes.

Administration.

Sec. 1. Inheritance and succession tax laws administered. — The assessment and collection of all taxes on inheritances and successions and of all estate taxes and the enforcement and administration of all the provisions of law relating thereto shall be vested in the state tax assessor. (R. S. c. 142, § 1. 1947, c. 354, § 2. 1953, c. 265, § 6. 1959, c. 33, § 14.)

Effect of amendment.—The 1959 amendment eliminated the former second paragraph providing that the commissioner of

finance and administration might act for the state tax assessor with respect to inheritance taxes in his absence or disability.