MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

Sec. 72. Compromise of claims.—The judge after a hearing, public or personal notice of which shall have been given in accordance with order of court, 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 and likewise any other actions of whatsoever nature wherein such executors or administrators are parties.

(1961, c. 317, § 499.)

The 1961 amendment deleted "either at law or in equity" following "actions" in the first paragraph of this section. As the rest of the section was not affected by the amendment, it is not set out.

Sec. 87. Remedies between coexecutors and coadministrators.—The superior court may hear and determine all disputes and controversies between coexecutors and coadministrators, and between their respective legal representatives. In such case, the court has the same power and may proceed in like manner as in cases between copartners. (R. S. c. 141, § 80. 1961, c. 317, § 500.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and deleted "Either the supreme judicial court or" at the beginning of the section and "in all cases where there is not a plain, adequate and complete remedy at law" at the end of the present first sentence.

Discovery of Property of Deceased Persons.

Sec. 92. Refusal to appear and answer when cited.—If a person duly cited 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. He is liable to any injured party in a civil action for all the damages, expenses and charges arising from such refusal. (R. S. c. 141, § 85. 1961, c. 317, § 501.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted "a civil action" for "an action on the case" in the present second sentence and made other minor changes in the section.

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.

Property Taxable.

Sec. 2. Property taxable; exemptions.

I.

C. By survivorship in any form of joint ownership including joint bank deposits in which the decedent joint owner contributed during his lifetime any

part of the property held in such joint ownership or of the purchase price thereof, excepting transfers by survivorship described in paragraph D hereof; (1955, c. 430, § 1)

D. By survivorship in any form of joint ownership, other than joint bank deposits and joint building and loan shares, whenever created, the value of decedent's interest in such joint ownership to be determined for the purpose of this chapter as provided by section 10-A. (1955, c. 430, § 2. 1959, c. 210, § 1)

II. All proceeds of life insurance policies upon the life of a decedent payable to his estate or to his executors or administrators except, if testate, such part thereof as is bequeathed to a widow or widower, or issue, or, if intestate, such part thereof as descends under the provisions of section 21 of chapter 170. All property which shall pass to or for the use of societies, corporations and institutions now or hereafter exempted by law from taxation, or to a public corporation, or to any society, corporation, institution or association of persons engaged in or devoted to any charitable, religious, benevolent, educational, public or other like work, pecuniary profit not being its object or purpose, or to any person, society, corporation, institution or association of persons in trust for or to be devoted to any charitable, benevolent, educational or public purpose, or the care or maintenance of cemeteries, cemetery lots or structures therein or thereon, shall be exempted; provided, however that such society, corporation, institution or association be organized and existing under the laws of this state or that the property transferred be limited for use within this state; provided further, that if such society, corporation, institution or association be organized or existing under the laws of a territory or state of the United States, other than this state, or of a foreign state or country, all property transferred to said society, corporation, institution or association shall be exempted, if at the date of decedent's death the said state or territory, or foreign state or country under the laws of which said society, corporation, institution or association was organized or existing did not impose a legacy or succession tax or a death tax of any character, in respect of property passing to or for the use of such society, corporation, institution or association organized or existing under the laws of this state, or if at the date of decedent's death the laws of the state or territory or foreign state or country under which said society, corporation, institution or association was organized or existing, contained a reciprocal provision under which such passing of property to said society, corporation, institution or association organized or existing under the laws of another state or territory or foreign state or country shall be exempt from legacy or succession or death taxes of every character, providing such other state or territory, or foreign state or country, allowed a similar exemption to such a society, corporation, institution or association organized or existing under the laws of another state or territory or foreign state or county. (1955, c. 154.)

III. Proceeds of pension and profit sharing plans. All proceeds of a trust forming a part of a stock bonus, pension or profit sharing plan, or of a nontrusteed annuity plan purchased from an insurance company, which constitutes a "qualified plan" or "qualified trust" under the internal revenue code, or which plan was in existence on or before January 1, 1963, which become payable by reason of the death of the decedent except for such part thereof as is payable to the widow or widower or issue of the decedent, and except for such part thereof as is payable to his estate or to his executor or administrator to the extent such part, if testate, is bequeathed to the widow, widower or issue, or, if intestate, descends to the widow, widower or issue. As used in this subsection, the term "proceeds" shall not be deemed or construed to include or apply to the proceeds of any life insurance policy payable upon the death of the person insured thereunder. (R. S. c. 142, § 2. 1949, c. 86. 1955, c. 154; c. 430, §§ 1, 2. 1959, c. 210, § 1. 1963, c. 121.)

I. GENERAL CONSIDERATION.

Effect of amendments. — The first 1955 amendment deleted the words "by reason whereof any such person or corporation shall become beneficially entitled, in possession or expectancy to any such property or the income thereof," which formerly appeared following the word "thereon" in line twelve of subsection II. The second 1955 amendment added the words "excepting transfers by survivorship described in paragraph D hereof" at the end of paragraph C of subsection I and added paragraph D of subsection I.

The 1959 amendment added "whenever" following "shares" and deleted "on or after the effective date of this act" following "created" in paragraph D of subsection I.

The 1963 amendment added subsection III.

As the rest of the section was not changed by the amendments, only paragraphs C and D of subsection I, subsection II and subsection III are set out.

Effective date of 1959 amendment.—P. L. 1959, c. 210, amending this section, provided in section 3 thereof as follows:

"Sec. 3. Effective date. This act shall apply to estates of decedents dying on or after its effective date." The act became effective on September 12, 1959.

II. PROPERTY PASSING BY INHERITANCE AND SUCCESSION, AND OTHERWISE.

Inheritance tax operates upon, etc.

An inheritance or succession tax is not a tax on property, but is a tax on the privilege of receiving property. Merrill Trust Co. v. Johnson, 159 Me. 45, 188 A. (2d) 75.

And, unless otherwise provided, etc.

In accord with original. See Boston Safe Deposit & Trust Co. v. Johnson, 151 Me. 152, 116 A. (2d) 656.

The burden of proving, etc.

In accord with original. See Merrill Trust Co. v. Johnson, 159 Me. 45, 188 A. (2d) 75.

Powers of appointment.—The provision of subsection (1) (c) providing for taxation of property passing by survivorship does not apply to the question of whether a power of appointment is an interest in property. Boston Safe Deposit & Trust Co. v. Johnson, 151 Me. 152, 116 A (2d) 656.

There is no specific provision in our inheritance tax statute controlling the taxation of powers of appointment. In the absence of statutory authority to tax such powers the common law principle, namely, that a power is not property, must be given effect. Hence, the testamentary power of appointment vested in a widow was not "property" or "any interest therein" passing to her within the meaning of the inheritance tax. Boston Safe Deposit & Trust Co. v. Johnson, 151 Me. 152, 116 A. (2d) 656.

Interest of a decedent in a profit-sharing trust fund, comprising what was in effect deferred compensation earned by him through loyal service, was not only more than a mere expectancy but was the "equivalent of ownership" for "purposes of taxation." Thus the designation of the widow as beneficiary was more than the exercise of a limited power of appointment over the property of another—it was a "grant" of an "interest in property," within the meaning of this section, intended to take effect, and in fact taking effect, upon the death of the decedent. Gould v. Johnson, 156 Me. 446, 166 A. (2d) 481.

III. PROPERTY PASSING TO ORGANIZATIONS.

Burden of proving exemption is on claimant.—The burden of proving an exemption from tax under the inheritance tax law is upon the claimant even though the exemption statute be liberally construed. Thirkell v. Johnson, 150 Me. 131, 107 A. (2d) 489.

But corporation cannot take free of inheritance tax, etc.

In accord with original. See Thirkell v. Johnson, 150 Me. 131, 107 A. (2d) 489.

Gift which may be used for general expenses of Masonic lodge not exempt.—A Masonic lodge is not entitled to exemption from tax upon a gift which may be used for the general expenses of the lodge on the ground that it is a charitable or benevolent institution. Thirkell v. Johnson, 150 Me. 113, 107 A. (2d) 489.

The conditions of a gift cannot be altered by the beneficiary so as to turn an otherwise taxable into an exempted gift. Thirkell v. Johnson, 150 Me. 131, 107 A. (2d) 489.

By-law of beneficiary organization cannot turn unrestricted gift into charitable trust. — An unrestricted gift under a will does not become a trust fund for charitable or benevolent purposes by reason of a by-law of the beneficiary organization that all moneys bequeathed to the organization shall become part of a permanent charity fund. Thirkell v. Johnson, 150 Me. 131, 107 A. (2d) 489.

A tax on the right to transfer held a "death tax of any character" within the meaning of this section. Merrill Trust Co. v. Johnson, 159 Me. 45, 188 A. (2d) 75.

Sec. 3. Tax on Class A.—Property which shall so pass to or for the use of the following persons who shall be designated as Class A, to wit: husband, wife, lineal ancestor, lineal descendant, adopted child, stepchild, adoptive parent, wife or widow of a natural or adopted son or husband or widower of a natural or adopted daughter of a decedent, grandchild who is the natural or adopted child of a natural or adopted child of a decedent, shall be subject to a tax upon the value thereof, in excess of the exemption hereinafter provided; of 2% of such value in excess of said exemption as does not exceed $50,000; of 3% of such value as exceeds said $50,000 and does not exceed $100,000; of 4% of such value as exceeds $100,000 and does not exceed $250,000; and of 6% of such value as exceeds $250,000. The value exempt from taxation to or for the use of a husband or wife shall in each case be $15,000. The value exempt from taxation to or for the use of a father, mother, child, adopted child, stepchild or adoptive parent, or grandchild who is the natural or adopted child of a natural or adopted deceased child of a decedent, shall in each case be $10,000. If there be more than one such grandchild, their total exemption shall, per stirpes, be $10,000. The value exempt to or for the use of any other person falling within said Class A, to wit: grandparent and other lineal ancestors of remoter degrees, wife or widow of a natural or adopted son, or husband or widower of a natural or adopted daughter of a decedent, grandchild who is the natural or adopted child of a natural or adopted living child of a decedent and other lineal descendants of remoter degrees, shall in each case be $500. (R. S. c. 142, § 3. 1945, c. 358, § 1. 1947, c. 260, § 1. 1949, c. 411. 1959, c. 290, § 1.)

Effect of amendment.—The 1959 amendment divided this section into five sentences, added the second sentence and deleted "husband, wife" before "father" and "provided however that" following "$10,000" in the third sentence.

Sec. 4. Tax on Class B.

The word "cousin" in this section is limited to first cousins. Ferguson v. Johnson, 159 Me. 4, 187 A. (2d) 59.

Sec. 5. Tax on Class C.—Property which shall so pass to or for the use of any person not falling within either of the classes hereinbefore set forth shall be subject to a tax upon the value thereof, in excess of an exemption of $500; of 12% of such value in excess of said exemption as does not exceed $50,000; of 14% of such value as exceeds $50,000 and does not exceed $100,000; of 16% of such value as exceeds $100,000 and does not exceed $250,000; and of 18% of such value as exceeds $250,000. (R. S. c. 142, § 5. 1959, c. 290, § 2.)

Effect of amendment.—The 1959 amendment increased the rate of tax in each instance in this section.

Sec. 6-A. General powers of appointment.—For all purposes of this chapter, an unconditional general power of appointment shall be regarded as absolute ownership of the interest in property subject to the power. By unconditional general power of appointment is intended a power which may be exercised at the pleasure of the holder in favor of himself, his estate or his creditors. (1957, c. 181.)

Cited in Gould v. Johnson, 156 Me. 446, 166 A. (2d) 481.

Sec. 7. Value of exempted property.—In nonresident estates the value of the property exempt from taxation under sections 2 to 6-A shall be only such proportion of the whole exempted amount as the estate of the nonresident taxable in

this state bears to the total estate wherever situated. (R. S. c. 142, § 7. 1959, c. 363, § 48.)

Effect of amendment.—Prior to the 1959 amendment the reference in this section was to "the provisions of the foregoing sections."

Value for Taxation.

Sec. 10. Tax on value as of testator's death.

Editor's note.—The catchline of this section has been set out to correct a typographical error.

Quoted in Stetson v. Johnson, 159 Me. 37, 187 A. (2d) 740.

Sec. 10-A. Value of share of joint owner.—If the decedent, at the time of his death, shall be the co-owner of any form of property, other than joint bank deposits or joint building and loan shares, in any form of joint ownership, whenever created, the value of such joint ownership shall be determined by dividing the whole value of the property by the number of co-owners, regardless of the amount, if any, contributed by any individual co-owner. (1955, c. 430, § 3. 1959, c. 210, § 2.)

Effect of amendment.—The 1959 amendment added the word "whenever" after the word "ownership" and before the word "created" and deleted the words "on or after the effective date of this act" formerly appearing after the word "created" and before the word "the" in this section.

Effective date. — P. L. 1959, c. 210, amending this section, provided in section 3 thereof as follows: "This act shall apply to estates of decedents dying on or after its effective date." The act became effective on September 12, 1959.

Sec. 10-B. Consideration for inter vivos transfer.—If the decedent shall have made a transfer described as taxable by section 2, subsection I, paragraph B, for a less than full consideration in money or money's worth, the value subject to tax shall be the value of the property transferred less the value of such consideration. (1959, c. 186.)

Sec. 12. Settlement when computation impossible.—In case it is impossible either to determine the persons entitled to an interest or to compute the present value of any interest, the state tax assessor may and to promote the early settlement of taxes shall endeavor to, with the approval of the attorney general, effect such settlement of the tax as he shall deem reasonable in the best interests of the state, and payment of the sum so agreed upon shall be full satisfaction of such tax. Executors, administrators and trustees are authorized and empowered to compromise the amount of tax with the state tax assessor. (R. S. c. 142, § 12. 1947, c. 354, § 3. 1961, c. 187.)

Effect of amendment.—The 1961 amendment inserted "either to determine the persons entitled to an interest or" and "and to promote the early settlement of taxes shall endeaver to" in the first sentence and substituted "reasonable in the best interests" for "for the best interest" in that sentence.

Cited in Stetson v. Johnson, 159 Me. 37, 187 A. (2d) 740.

Sec. 13. When settlement cannot be effected.

Quoted in Stetson v. Johnson, 159 Me. 37, 187 A. (2d) 740.

Sec. 14. Tax deducted before property delivered.

The state inheritance tax falls not upon the estate but upon the recipient. Old Colony Trust Co. v. McGowan, 156 Me. 138, 163 A. (2d) 538.

And the executor is in effect made a tax collector by this section. Old Colony Trust Co. v. McGowan, 156 Me. 138, 163 A. (2d) 538.

Tax Payable.

Sec. 15. When tax payable.—Except as otherwise provided in sections 13 and 29, the tax imposed by sections 1 to 44 shall be payable at the expiration of 15 months from the date of death of the decedent. The state tax assessor may for cause extend the time of payment. (R. S. c. 142, § 15. 1947, c. 354, § 5. 1951, c. 266, § 116. 1961, c. 216.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and deleted a provision at the end of the present first sentence directing that the tax should be paid at the same time as legacies if they were paid within the period.

Lien.

Sec. 18. Lien.—Property subject to taxes as aforesaid, in whatever form of investment it may happen to be, shall be charged with a lien for all taxes and interest thereon which are or may become due on such property; but said lien shall not attach to any personal property after the same has been sold or disposed of for value by the executor, administrator or trustee, or to real estate after it has been conveyed by the executor, administrator or trustee under license of the probate court. The lien charged by sections 1 to 44, inclusive, upon any real estate or separate parcel thereof may be discharged by the payment of all taxes and interest due and to become due upon said real estate or separate parcel and the cost of recording the certificate hereinafter mentioned; and upon payment thereof, the state tax assessor shall cause a certificate showing such payment to be recorded in the registry of deeds in each county where said real estate is located.

Such lien shall expire 5 years after an inventory of the property with respect to which the lien exists is filed with the state tax assessor; provided, however, the state tax assessor may record in the registry of deeds in the county where such property is located, within said 5-year period, a certificate of lien, which shall extend said lien for an additional period of 5 years beginning at the termination of the first 5-year period, and the assessor may further extend said lien 5 years at a time by filing additional certificates of lien. Such certificate of lien shall be sufficient if it states the name of the decedent, identifies the property, states that the assessor claims a lien thereon for unpaid inheritance or estate taxes, and shall state the name of the record owner of such property at the time of decedent's death if other than decedent.

If the lien shall not have been terminated as above set forth, it shall in any event expire 10 years after decedent's death, unless further extended by the filing of a lien certificate as above set forth, as to any property in the hands of a purchaser for value.

The limitations established shall apply to liens heretofore as well as hereafter created. (R. S. c. 142, § 17. 1947, c. 354, § 6. 1955, c. 272. 1957, c. 429, § 89.)

Effect of amendments.—The 1955 amendment deleted the words "of which a decedent dies seized or possessed" after the word "property" at the beginning of the first sentence and the words "and all property acquired in substitution therefor" before the word "shall" where it first appears in the first sentence. The amendment also added the second, third and fourth paragraphs.

The 1957 amendment, which became effective October 31, 1957, deleted "herein" after "limitations" in the last paragraph and deleted all of the language after "created" formerly reading: "provided, however, that no lien heretofore created shall expire prior to 6 months after the effective date of this act," in that paragraph.

Payment.

Sec. 21. Civil action by state; bond.—A civil action may be maintained in the name of the state against an administrator, executor, trustee, grantee or donee for the recovery of all taxes imposed by sections 1 to 44 with interest

thereon. Administrators and executors shall be liable to the state on their administration bonds for all taxes assessable under the provisions of said sections and interest thereon. Whenever an administration bond is waived by testamentary provision or by the assent of interested parties, the judge of probate, notwithstanding such waiver, before granting letters testamentary or of administration may, and unless he shall find that any inheritance or estate tax due and to become due the state is reasonably secured by the lien upon real estate hereinbefore provided shall, require a bond payable to him or his successor sufficient to secure the payment of all inheritance taxes and interest conditioned in substance to pay all inheritance and estate taxes due to the state from the estate of the deceased with interest thereon. An action for the recovery of inheritance and estate taxes and interest shall lie on either of said bonds without the authority of the judge of probate. (R. S. c. 142, § 20. 1955, c. 173. 1961, c. 317, § 502.)

Effect of amendments. — The 1955 amendment substituted, in the third sentence, the words "unless he shall find that any inheritance or estate tax due and to become due the state is reasonably secured by the lien upon real estate" for the words "if in his judgment the amount of any bequest or distributive share of the estate may be subject to a tax as."

The 1961 amendment substituted "A civil action" for "An action of debt" at the beginning of this section and deleted "the provisions of" formerly preceding "sections 1 to 44" in the first sentence.

Sec. 22. Administrator appointed within 6 months.—If, upon the decease of a person leaving an estate which may be liable to pay an inheritance tax, a will is not offered for probate or an application for administration is not made within 6 months after the date of death, or if the executor or administrator does not qualify within said period, the probate court, upon application by the state tax assessor, may appoint an administrator. Nothing shall prevent the tax assessor from petitioning for appointment within 6 months after the date of death, if in the opinion of the tax assessor such action is necessary. (R. S. c. 142, § 21. 1947, c. 354, § 7. 1959, c. 224, § 1.)

Effect of amendment.—The 1959 amendment added "or if the executor or administrator does not qualify within said period" after "death" in the first sentence, substituted "may" for "shall" near the end of that sentence and added the second sentence.

Appraisal and Valuation.

Sec. 26. Banks and loan and building associations to report.—Whenever there shall be a certificate of deposit or account in any bank, savings bank or trust company, or a share account in any loan and building association, and any officer or employee of any such institution, who has charge of any such deposit or account, is informed or has knowledge of the death of any person carried on its records as owner or co-owner thereof, then he shall, within 40 days from the receipt of such information or knowledge, notify the state tax assessor of such death, giving the name of the deceased person, the value as of the date of his death of all accounts and shares in such institution on which his name appears and the names and addresses of any surviving co-owner or co-depositor; provided, however, no such report shall be required if the total of the accounts or shares in such institution does not exceed $200. The state tax assessor shall supply blanks for such reports upon request. Willful failure to comply shall render such bank, savings bank, trust company or loan and building association liable to a penalty not to exceed $10 to be collected in a civil action brought by the attorney general. It shall be a complete defense to such action that such officer or employee of the banking institution in charge of such account or accounts did not know of the depositor's death or no inheritance or estate tax was payable.

(1961, c. 317, § 503.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in the third sentence of the first paragraph of this section and deleted "of debt" following "action" in the last sentence of such paragraph.

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

Sec. 30. Deductions of nonresidents.

VIII. The federal estate tax, if any, multiplied by a fraction, the numerator of which is the value of the real and tangible personal property in Maine, subject to the federal estate tax, and the denominator the value of the gross estate, wherever situated, subject to the federal estate tax;

(1959, c. 224, § 2.)

Effect of amendment.—The 1959 amendment substituted "subject to the federal estate tax" for "undiminished by mortgage or pledge," added "value of the" before "gross" and "subject to the federal estate tax" at the end of subsection VIII.

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

Sec. 33. Petition for abatement.—An executor, administrator, trustee, grantee, donee, survivor or beneficiary aggrieved by the determination of the state tax assessor may within 90 days after the certification of any tax apply to the probate court in the county where the estate is being administered for the abatement of the tax determined or any part thereof and if the court adjudges that the tax or any part thereof was wrongly determined, it shall order an abatement of such part thereof as was determined without authority of law. Questions of law may be reported by the probate court to the supreme judicial court sitting as a court of law. Upon a final decision ordering an abatement of any part of a tax determined, the determination of the state tax assessor shall be amended in accordance with the decree of the court. (R. S. c. 142, § 30. 1947, c. 354, § 14. 1961, c. 317, § 504.)

Effect of amendment.—The 1961 amendment deleted "by a petition in equity" formerly following "apply" in the first sentence of this section.

Applied in Boston Safe Deposit & Trust Co. v. Johnson, **151 Me. 152, 116 A.** (2d) 656; Gould v. Johnson, 156 Me. 446, 166 A. (2d) 481; Ferguson v. Johnson, 159 Me. 4, 187 A. (2d) 59.

Sec. 37. Authority of state tax assessor.

The state tax assessor is given authority to enforce the collection of any taxes secured by bond in a civil action brought thereon regardless of the fact that some other official may be named as obligee therein.

(1961, c. 317, § 505.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in the second paragraph of this section.

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

Definitions and Limitations.

Sec. 43. Definitions.

"Property".—The present definition of property in this section was enacted in like language in 1893, and is almost identical in language with the Massachusetts Act of 1891. Boston Safe Deposit & Trust Co. v. Johnson, **151 Me. 152, 116 A.** (2d) 656.

Sec. 44. Limitations.

Sections 1 to 44 inclusive of this chapter only operate prospectively. Stetson v. Johnson, 159 Me. 37, 187 A. (2d) 740.

Date of testator's death determines applicable law.—In providing in this section that the changes in rate should apply only to "property and interests therein passing on or after the 1st day of July, 1933" and preserving the rates under prior law in other cases, the effective test to determine

if this or the old law applies to a particular set of facts was intended to be whether or not the testator died "on or after" that date. Stetson v. Johnson, 159 Me. 37, 187 A. (2d) 740.

And not date of vesting of contingent interests.—Where testator died in 1918 and the contingent beneficiaries did not become entitled to possession until 1961, the rates and values to be used as a base for assessment of inheritance taxes should be the rates in effect and the values determined as of the date of death of the testator in 1918, rather than the date when contingent beneficiaries were ascertained and became entitled to possession and enjoyment in 1961. Stetson v. Johnson, 159 Me. 37, 187 A. (2d) 740.

Chapter 156.

Partition of Real Estate. Allowances. Distributions.

Partition of Real Estate.

Sec. 7. When such interest under attachment. — If the share of any such widow or widower, heir or devisee, or anyone claiming under such widow or widower, heir or devisee, is under attachment, the judge, on like application from the plaintiff in the action or from the attaching officer, shall require the money, not exceeding the amount of the attachment, to be paid to the officer, who shall be answerable therefor in his official capacity, subject to the rights of the parties, as if originally attached. (R. S. c. 143, § 7. 1961, c. 317, § 506.)

Effect of amendment.—The 1961 amendment substituted "action" for "suit" near the middle of this section.

Sec. 11. Guardians appointed for minors or mentally ill persons, agents for owners out of state.—If it appears to the court that any minor or mentally ill person, who has no guardian in the state, is interested in the premises, the court shall assign him a guardian for the action, to appear for him and defend his interest. If any owner resides without the state, having no agent therein, the judge shall appoint an agent to act for him. (R. S. c. 143, § 11. 1961, c. 317, § 507.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted "mentally ill" for "insane" and "action" for "suit" in the present first sentence.

Allowances to Widows and Others.

Sec. 17. Widows support.

Applied in Old Colony Trust Co. v. McGowan, 156 Me. 138, 163 A. (2d) 538.

Distribution of Personal Estate.

Sec. 23. Assignment of debts; conditions of action.—If any evidence of debt or account due to the deceased is thus assigned, the assignee may use the name of the executor or administrator to collect the same, by civil action or otherwise, on giving such indemnity against costs as the judge orders, saving to all supposed debtors the right to set off any claim against the estate of the deceased. (R. S. c. 143, § 23. 1961, c. 317, § 508.)

Effect of amendment.—The 1961 amendment substituted "civil action" for "suit" in this section.

Sec. 27. Legatee may sue for legacy. — Any legatee of a residuary or