

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

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

specific legacy under a will may sue for and recover the same of the executor in a civil action or other appropriate action. (R. S. c. 143, § 27. 1961, c. 317, § 509.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action of debt at common law” in this section.

Chapter 157.

Insolvent Estates.

Sections 19-20. Actions Pending and Commenced.

Appeals.

Sec. 13. Petition for leave to bring action, after failing to prosecute appeal.—A person, whose claim has been disallowed in whole or in part and who by accident or mistake has omitted to give notice at the probate court in season, or after giving such notice has by accident or mistake omitted further to prosecute his appeal may, within 2 years after the report is made, petition the superior court and, after notice to the administrator and hearing, leave may be given to commence within 30 days a civil action in the county where administration was granted for the recovery of his claim, but not after 4 years from granting administration. No decree of distribution can be disturbed by a judgment so recovered. (R. S. c. 144, § 13. 1961, c. 317, § 510.)

Effect of amendment.—The 1961 amendment substituted “within 30 days a civil action” for “a suit at the next term of the court” in the first sentence of this section.

Sec. 14. Proceedings on appeal.—When an appeal is so taken or leave is so granted, the claim shall be determined in a civil action commenced within 3 months after the report was made or within 30 days after leave was granted. Such claim shall be deemed contingent and provision shall be made for it as in sections 10 and 11. (R. S. c. 144, § 14. 1961, c. 317, § 511.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action for money had and received” and “within 30 days” for “at the next term” in the first sentence of this section.

Sec. 15. If claim allowed and appeal taken by administrator, heir or creditor, claimant may apply to superior court.—A person whose claim against an insolvent estate has been allowed by commissioners and their decision has been appealed from by the administrator, heir at law or any other creditor, and who by accident or mistake has omitted to commence a civil action within the time prescribed by section 14, may petition the superior court, and after notice to the administrator and a hearing, the court may grant leave to commence an action for the recovery of his claim within 30 days after leave is granted, in the county where administration was granted, within 4 years from granting administration, but no decree of distribution can be disturbed by a judgment so recovered. (R. S. c. 144, § 15. 1961, c. 317, § 512.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action for money had and received” and “within 30 days leave is granted” for “at the next term of the court” in this section.

Sec. 16. Proceedings in action and judgment.—The creditor, before service, must annex to his writ a schedule of his claims, stating the nature of them or file it with the clerk of the court where the writ is returnable, 14 days before its return day. At such time as the court directs, the administrator shall file an abstract of all demands of the deceased against the claimant and judgment shall be rendered for either party for the balance ascertained at the trial. (R. S. c. 144, § 16. 1963, c. 402, § 265.)