

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1835.

AUGUSTA:
WILLIAM J. CONDON,.....PRINTER.

1835.

FIFTEENTH LEGISLATURE.

NO. 42.

SENATE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND THIRTY-FIVE.

AN ACT additional to an Act to regulate the Jurisdiction and proceedings of the Courts of Probate.

SECTION 1. *Be it enacted by the Senate
2 and House of Representatives, in Legislature
3 assembled, That Appraisers, in taking the inven-
4 tory of the estate of any deceased partner, shall ap-
5 praise and return the whole of the partnership es-
6 tate, goods and chattels, rights and credits, and
7 carry into the footing an amount equal to such
8 ceased partner's proportionable part of the co-
9 partnership interest, and the surviving partner or
10 partners shall give bond to the Judge of Pro-
11 bate who has jurisdiction of the settlement of*

12 said estate, in such sum and with such sureties
13 as he may think reasonable, for the benefit of all
14 persons interested in said estate; conditioned to
15 use due diligence in closing the affairs of the
16 late partnership, apply the property thereof to-
17 ward the payment of the copartnership debts, to
18 render a statement in writing under oath to the
19 Judge, whenever by him required, of all the
20 copartnership affairs, including the property
21 owned by the late firm and the debts due thereto,
22 as well as what may have been paid by the sur-
23 vivor or survivors, toward the partnership debts,
24 and what may still be due and owing therefor,
25 and to pay over within twelve months, unless a
26 longer time be allowed by a decree of the Judge,
27 to the Executor or Administrator, the excess,
28 if any there be, beyond satisfying the copartner-
29 ship debts, but in case the surviving partner or
30 partners, neglect and refuse to give the bond
31 herein before mentioned, the Executor or Ad-
32 ministrator shall forthwith take the whole co-
33 partnership estate, goods and chattels, rights
34 and credits, into his own possession, and shall be
35 authorized to use the name of the survivors in
36 collecting the debts due the late firm, if neces-

37 sary, and shall with the copartnership property
38 pay the debts due from the late firm with
39 as much expedition as possible, and return or
40 pay to the surviving partner or partners, his or
41 their proportion of the excess, if any there be,
42 and the bond of the Executor or Administrator
43 shall be so varied as to contain a provision to se-
44 cure the faithful performance of his duty in this
45 respect, and an indemnity against unnecessary
46 costs.

SECT. 2. *Be it further enacted,* That in
2 case any surviving partner or partners shall neg-
3 lect or refuse to exhibit to the appraisers, the
4 copartnership property, goods and chattels,
5 rights and credits, belonging to the firm at the
6 time of the death of the partner whose estate is
7 under administration for appraisement, or deliv-
8 er over the same in case said surviving partner or
9 partners neglect or refuse to give the bond, as
10 is provided in the first section of this Act, the
11 said Judge of Probate is hereby authorized to
12 commit the surviving partner or partners unto
13 the common gaol of the county, there to remain
14 till he or they shall consent to do and perform
15 that for the neglect and refusal of which the

16 commitment was made, or be released by the
17 consent of the Executor or Administrator, or by
18 order of the Supreme Judicial Court.

SECT. 3. *Be it further enacted*, That when-
2 ever an Executor or Administrator of an es-
3 tate which is insolvent, has notes or other de-
4 mands belonging to the estate under his admin-
5 istration, which he believes cannot be collected
6 by reason of the poverty of the debtor, or ina-
7 bility to pay them, and can satisfy the Judge
8 that he has used due diligence to collect them,
9 or that it is inexpedient to sue them, the Judge
10 may in such a case, upon the application of the
11 widow or the guardian of the minor children,
12 if there be no widow, after giving due notice of
13 such application to the creditors, and they neg-
14 lect or refuse to take such notes or demands, or
15 any part of them, at their nominal value, and give
16 the estate credit for the same, to be deducted
17 from their respective claims before distribution
18 is made of the assets in the hands of such Ex-
19 ecutor or Administrator, order and direct the said
20 Executor or Administrator to assign and deliv-
21 er said notes or demands to the widow or guar-
22 dian of the minor children, but in case the cred-
23 itors elect to receive them or any part of them

24 as aforesaid, to assign and deliver them to the
25 said creditors; and the holder of the said notes
26 or demands may collect the same in the name
27 of the Executor or Administrator, or his own
28 name, as the case may require: *Provided how-*
29 *ever*, the said Executor or Administrator, or
30 the estate under his administration, shall in no
31 case be liable to any costs, and the debtor shall
32 have the same right of set off which he now has
33 by law.

SECT. 4. *Be it further enacted*, That if any
2 of the heirs at law or devisees of any person de-
3 ceased, whose estate may be represented insol-
4 vent, shall during the time between such repre-
5 sentation of such estate as insolvent, and the
6 conveyance of the real estate upon sale for the
7 payment of debts, in case the estate aforesaid
8 shall be absolutely insolvent, remove, pull down
9 or destroy any building on the real estate afore-
10 said, or shall cut down, destroy or carry away
11 any tree or trees growing on said real estate, for
12 timber or firewood, other than what may be ne-
13 cessary for repairs or fuel for the family of said
14 deceased person, or commit any strip or waste
15 upon said real estate, he or they shall be liable to
16 pay treble the value of the property so removed,
17 pulled down, destroyed, cut down, carried away,

18 stripped and wasted, to be recovered in an action
19 of trespass, in the name of the Executor or Exe-
20 cutors, Administrator or Administrators, in any
21 Court proper to try the same; and in case the Ex-
22 ecutor or Executors, Administrator or Admin-
23 istrators, being heirs or devisees as aforesaid,
24 shall commit any of the trespasses aforesaid, he
25 or they upon satisfactory proof before the Judge
26 of Probate of the commission of said trespasses,
27 shall be liable to the same extent, and their
28 bond shall be so varied as to cover any liability
29 which may accrue in such manner, and the mon-
30 ies which may arise in either of the ways afore-
31 said, shall be accounted for by the Executor or
32 Executors, Administrator or Administrators, in
33 their account of administration.

SECT. 5. *Be it further enacted,* That any per-
2 son who shall be liable as surety for any deceased
3 person, whose estate has been represented insol-
4 vent, or shall have any other contingent claim
5 against such estate, may exhibit the same to the
6 Commissioners, who may upon proof thereof, in-
7 clude the amount by them allowed in their re-
8 turn; but they shall in such return distinguish
9 such claims from the other claims and briefly
10 state the nature of the same.

STATE OF MAINE.

IN SENATE, March 11, 1835.

Ordered, that 300 copies of the foregoing Bill be printed for the use of the Legislature.

[Extract from Journal.]

Attest, WILLIAM TRAFTON, Secretary.

WM. J. CONDON....PRINTER TO THE STATE.
