

MAINE STATE LEGISLATURE

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PUBLIC ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

FIFTEENTH LEGISLATURE,

AT ITS SESSION, HELD IN JANUARY, 1835.

Published agreeably to the Resolve of June 28, 1820.

AUGUSTA:

WILLIAM J. CONDON.....PRINTER TO THE STATE.

1835.

Chapter 191.

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

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,*

Appraisers to return whole of partnership estate and surviving partner to render account in writing of partnership property and give bond to pay over excess after discharging partnership debts.

That appraisers in taking the inventory of the estate of any deceased partner, shall appraise and return the whole of the partnership estate, goods and chattels rights and credits and carry into the footing an amount equal to such deceased partner's proportional part of the copartnership interest, and the surviving partner or partners shall give bond to the Judge of Probate who has jurisdiction of the settlement of said estate, in such sum and with such sureties as he may think reasonable, for the benefit of all persons interested in said estate, conditioned to use due diligence in closing the affairs of the late partnership, apply the property thereof towards the payment of the copartnership debts, to render a statement in writing upon oath to the Judge, whenever by him required, of all the copartnership affairs, including the property owned by the late firm and the debts due thereto, as well as what may have been paid by the survivor or survivors toward the partnership debts and what may still be due and owing therefor, and to pay over within twelve months, unless a longer time be allowed by a decree of the Judge, to the executor or administrator, the excess, if any there be, beyond satisfying the copartnership debts; but in case the surviving partner or partners neglect or refuse to give the bond herein before mentioned, the executor or administrator shall forthwith take the whole copartnership estate, goods and chattels, rights and credits into his own possession and shall be authorized to use the name of the survivors in collecting the debts due the late firm, if necessary and shall with the copartnership property pay the debts due from the late firm with as much expedition as possible, and

In case of neglect or refusal, administrator, &c. may take whole partnership property into his possession.

return or pay to the surviving partner or partners his or their proportion of the excess, if any there be, and the bond of the executor or administrator shall be so varied as to contain a provision to secure the faithful performance of his duty in this respect and an indemnity against unnecessary costs.

SECT. 2. *Be it further enacted,* That in case any surviving partner or partners shall neglect or refuse to exhibit to the appraisers the copartnership property, goods and chattels, rights and credits belonging to the firm at the time of the death of the partner whose estate is under administration for appraisement, or deliver over the same in case said surviving partner or partners neglect or refuse to give the bond, as is provided in the first section of this Act, the said Judge of Probate is hereby authorized to commit the surviving partner or partners unto the common jail of the county, there to remain till he or they shall consent to do and perform that, for the neglect and refusal of which the commitment was made, or be released by the consent of the executor or administrator, or by order of the Supreme Judicial Court.

Judge of Probate may commit to gaol partner refusing to exhibit partnership property.

SECT. 3. *Be it further enacted,* That whenever an executor or administrator of an estate which is insolvent has notes or other demands belonging to the estate under his administration, which he believes cannot be collected by reason of the poverty of the debtor, or inability to pay them and can satisfy the Judge that he has used due diligence to collect them, or that it is inexpedient to sue them, the Judge may in such a case, upon the application of the widow, or the guardian of the minor children, if there be no widow, after giving due notice of such application to the creditors, and they neglect or refuse to take such notes or demands or any part of them at their nominal value and give the estate credit for the same to be deducted from their respective claims before distribu-

Judge of Probate in certain cases may assign notes and demands to widow and children, or deliver them at their nominal

value to credit-
ors.

Holder may sue
in name of ad-
ministrator, &c.

Proviso.

Heirs at law or
devises liable
for waste in
treble value of
property remov-
ed.

How recovered.

When adminis-
trator is heir at law
to be liable on
his bond.

tion is made of the assets in the hands of such executor or administrator, order and direct the said executor or administrator to assign and deliver said notes and demands to the widow, or guardian of the minor children; but in case the creditors elect to receive them or any part of them as aforesaid, to assign and deliver them to the said creditors; and the holder of the said notes or demands may collect the same in the name of the executor or administrator, or his own name as the case may require, *Provided, however,* the said executor or administrator or the estate under his administration shall in no case be liable to any costs, and the debtor shall have the same right of set off which he now has by law.

SECT. 4. *Be it further enacted,* That if any of the heirs at law or devisees of any person deceased, whose estate may be represented insolvent, shall during the time between such representation of such estate as insolvent and the conveyance of the real estate upon sale for the payment of debts, in case the estate aforesaid shall be absolutely insolvent, remove, pull down or destroy any building on the real estate aforesaid, or shall cut down, destroy or carry away, any tree or trees, growing on said real estate, for timber or firewood, other than what may be necessary for repairs or fuel for the family of said deceased person, or commit any strip or waste upon said real estate, he or they shall be liable to pay treble the value of the property so removed, pulled down, destroyed, cut down, carried away, stripped and wasted, to be recovered in an action of trespass in the name of the executor or executors, administrator, or administrators, in any Court proper to try the same; and in case the executor or excutors, administrator or administrators being heirs or devisees as aforesaid, shall commit any of the trespasses as aforesaid, he or they upon satisfactory proof before the Judge of Probate of the commission of said trespass, shall be liable to the

same extent, and their bond shall be so varied as to cover any liability which may accrue in such manner and the monies which may arise in either of the ways aforesaid, shall be accounted for by the executor or executors, administrator or administrators in their account of administration.

SECT. 5. *Be it further enacted,* That any person who shall be liable as surety for any deceased persons, whose estate has been represented insolvent, or shall have any other contingent claim against such estate, may exhibit the same to the commissioners, who may upon proof thereof, include the amount by them allowed in their return; but they shall in such return distinguish such claims from the other claims, and briefly state the nature of the same.

Persons liable as sureties may exhibit their claims to commissioners.

[Approved by the Governor, March 24, 1835.]

Chapter 192.

AN ACT additional, to promote the sale and settlement of the Public Land.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That there shall be appointed and commissioned in manner prescribed by the Constitution, a Surveyor General, whose duty it shall be to survey and superintend, and direct in the surveying the public land, and perform the other duties herein provided, or which may be prescribed by law, and whose salary shall be One Thousand Dollars in lieu of all other compensation, and who shall hold his office for the term of four years, unless sooner removed by the Governor and Council.

Surveyor General of public lands to be appointed.

His salary and term of office.

SECT. 2. *Be it further enacted,* That the Surveyor General shall have power to employ such assistants and other persons as he may deem necessary, to carry into effect the provisions of this Act, for whose conduct he shall be responsible, and

Empowered to appoint assistants.