

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE.

1859.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February  
26, 1840, and March 16, 1842.  
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AUGUSTA:
STEVENS & SAYWARD, PRINTERS TO THE STATE.

1859.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1859.

Chapter 95.

An act in relation to the auditing and settlement of accounts and claims against the state.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. All accounts against the state, including those of the state prison, state reform school, insane hospital and land department, shall be presented to and audited by the governor and council, and when so audited the same shall be registered by the secretary of state in suitable books, to be kept by him for that purpose, wherein also shall be entered against said accounts, all payments made thereon; and also all claims against the state, when allowed, and before being paid, shall be presented to the secretary of state and registered in like manner.

Accounts against state to be audited by governor and council and registered.

Claims allowed to be registered.

SECT. 2. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

Acts inconsistent repealed.

SECT. 3. This act shall take effect and be in force when approved by the governor.

[Approved April 2, 1859.]

Chapter 96.

An act giving further remedy against attorneys.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. Any attorney at law who has heretofore collected or received, or shall hereafter collect or receive any money or other valuable thing on any claim left with him for settlement or collection, and shall neglect or refuse to account with and pay over the same to any person legally entitled thereto for ten days after being requested so to do after this act shall take effect, shall be deemed guilty of a breach of duty as an attorney at law, and shall be liable to the summary process hereinafter provided.

Attorneys, liability of for not paying over.

SECT. 2. Any person legally entitled to such money or other valuable thing, on filing a motion in writing, under oath, setting forth the facts, at any term of the supreme judicial court in the county where such attorney resides, shall be entitled to a rule requiring such attorney on a day fixed therein, to appear before said court and shew cause why he should not account with and pay over to the claimant, such money or other valuable thing, and to abide the order of the court in the premises. And the rule shall be

— may be required by court to appear and show cause, rule how served.

CHAP. 96.

— shall file answer, power of court to decree.

— failing to appear, effect.

— exception filed, proceedings.

— neglect to perform decree, penalty, provision.

— suits at law against, not barred.

— judgment recorded against, facts to be noted.

— not entitled to give bond, nor notice until after ninety days.

served on said attorney, by giving him a copy in hand, at least five days before the return day.

SECT. 3. On the return day of the rule, such attorney shall file an answer to said motion under oath, and the court may examine either party touching the subject matter thereof, and hear any evidence pertinent thereto, and render such decree in the premises as equity may require. If such attorney fails to appear and make answer to said motion, the facts set forth therein shall be taken as confessed by him, and the court shall render such decree therein as equity shall require.

SECT. 4. Either party may file exceptions to any ruling or decree of the court, and the same shall be allowed by the presiding judge, unless deemed frivolous, and the proceedings therein, in the law court, shall be the same as in other actions.

SECT. 5. If such attorney shall neglect or refuse to perform the decrees of the court in the premises, he shall be committed for contempt of court till he shall perform such decree, or be otherwise discharged according to law, and the court shall order his name to be stricken from the roll of attorneys and counselors at law in said court; *provided however*, that in all complaints for money or other valuable thing collected or received by any attorney as such, prior to the passage of this act, and unpaid to the claimant, if the court shall be satisfied upon evidence adduced, that such attorney is actually poor and has no property, directly or indirectly, or interest therein, exempt from attachment and levy on execution, the court may dismiss the complaint with costs to either party as justice may require.

SECT. 6. The remedy herein provided shall not bar the creditor of his suit at common law against such delinquent attorney either before the commencement of the summary process, or after the adverse decision thereon. In case judgment is recorded against an attorney under either process for money or other valuable thing, hitherto or hereafter collected or received by him as such, the facts shall be noted on the margin of the execution issued on said judgment; and the debtor when arrested on said execution, shall not be entitled to give any bond for his liberation; and if he applies to take the oath described in section twenty-eight, chapter one hundred and thirteen of the revised statutes, no notice shall be issued to the creditor, till at least ninety days after his commitment.