

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE.

1872.

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1872.

PUBLIC LAWS
OF THE
STATE OF MAINE.
1872.

CHAP. 85.

Chapter 85.

An act to amend chapter eighty-seven of the revised statutes, relating to actions by or against executors or administrators.

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

R. S., chap. 87, sects 11, 12, 13, 14, 15, 16, 17 and 18, amended.

Chapter eighty-seven of the revised statutes, is amended in sections eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, so as to read as follows :

Actions against executors and administrators commenced within one year after appointment.

'SECT. 11. Any action against an executor or administrator, commenced within one year after notice is given by him of his appointment, shall be continued at the expense of the plaintiff until said year expires, and shall be barred by a tender of the debt within the year; excepting actions on claims not affected by the insolvency of the estate, and actions in case of appeals from commissioners of insolvency or other commissioners appointed by the judge of probate.'

Action against executor or administrator not maintainable unless demand made thirty days prior thereto, and brought within two years.

'SECT. 12. No action against an executor or administrator, commenced since the third day of February, eighteen hundred and sixty-nine, on a claim against the estate shall be maintained, except as provided in the thirteenth and fifteenth sections, unless such claim is first presented in writing and payment demanded at least thirty days before the action is commenced and within two years after notice is given by him of his appointment; and none on a claim so presented and demanded unless commenced during said two years or within six months next following. Executors or administrators residing out of the state at the time of giving notice of their appointment, shall appoint an agent or attorney in the state and insert his name and address in such notice. Executors or administrators removing from the state after giving notice of their appointment, shall appoint an agent or attorney in the state and give public notice thereof; demand or service made on any such agent or attorney shall have the same effect in law as if made on such executors or administrators. When an executor or administrator residing out of the state has no agent or attorney in the state, demand or service may be made on one of his sureties and shall have the same legal effect as if made on him. In any estate on which, when this act takes effect, administration has been commenced and is not finally closed, a creditor who has not presented his claim shall be allowed at least six months after this act takes effect, to present it and demand payment, and to commence after thirty days an action thereon.'

Executors and administrators residing out of the state required to appoint an agent or attorney residing in the state on whom demand or service may be made.

When creditor absent from the state, may bring his action.

'SECT. 13. A creditor who was absent from the state during said two years, and had no sufficient attorney in the state, may make presentment and demand of his claim and after thirty days

commence his action, within six months from his return or appointment of such attorney. When assets come into the hands of an executor or administrator after said term of two years, presentment and demand may be made by a creditor, and after thirty days an action commenced, within two years from the receipt of such assets and within six months after the creditor has notice thereof. Judgment rendered in any action authorized by this section, shall not disturb payments made in good faith by the executor or administrator prior to presentment of the claim sued in such action.'

'SECT. 14. When an action on a covenant or contract does not accrue within said two years, the claimant may file his demand in the probate office within that time, verified as required in case of claims presented to commissioners on insolvent estates; and the judge of probate shall direct that sufficient assets, if such there be, shall be retained by the executor or administrator, unless the heirs or devisees of the estate give bond to the executor or administrator, with one or more sureties, approved by said judge, to pay whatever may be found due on said claim.'

Proceedings when action does not accrue within four years.

'SECT. 15. When no bond is so given, an action may be brought by the claimant against the executor or administrator, within six months after his demand becomes due. But when a bond is given, assets shall not be reserved, but the estate shall be liable in the hands of the heirs or devisees, or those claiming under them, and an action may be brought on such bond. If anything is found due, the claimant shall have judgment therefor, and for his costs.'

Proceedings when bond is given and when not given.

'SECT. 16. When such claim has not been filed in the probate office within said two years, the claimant may have remedy against the heirs or devisees of the estate within one year after it becomes due, and not against the executor or administrator.'

When claim has not been filed within two years, remedy against heirs or devisees.

'SECT. 17. When a vacancy occurs within said two years, and an administrator de bonis non is appointed, an additional year shall be allowed for the presentment and demand of claims against the estate; but the time whilst the vacancy continues shall not be deemed a part of the three years limited; and on any claim presented to the administrator de bonis non or his predecessor, and demanded within the said three years, an action may be commenced after thirty days, and within six months from the end of said three years, but not within one year from the notice of appointment given by the executor or first administrator.'

Time within which actions can be brought against administrators de bonis non.

'SECT. 18. When any executor or administrator does not give legal notice of his appointment, he shall have no benefit from the limitations contained in this chapter; and actions may be commenced against a new administrator on the same estate as though

Limitation of actions against an administrator de bonis non, when no notice.

CHAP. 86.

Actions against
new administrator
of same estate.

he were the first administrator or executor, subject to the conditions and limitations contained in this chapter.'

Approved February 29, 1872.

Chapter 86.

An act additional to chapter forty-seven of the revised statutes, relating to banks and banking.

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

Enforcement of
execution against
the stockholders
of a bank in the
hands of receivers.

SECT. 1. In a bill in equity brought by the receivers of a bank against the stockholders, when any stockholder is defaulted, or judgment is awarded against him, execution may be issued at any term for the amount of his assessment, interest and costs, and enforced without awaiting the final decision on the bill as to the remaining stockholders.

Execution on land
taken on execution
may be sold
if the execution
cannot be collected
immediately.

SECT. 2. Any execution against a stockholder, which cannot be immediately collected, may be sold by the receivers at public auction, or any land taken on execution by the receivers, may be so sold and conveyed, after such notice as the court may order. The purchaser of such execution may enforce it in the name of the receivers, after giving them satisfactory security for costs.

R. S., chap. 47,
sect. 71, not to be
construed to require
payment of
interest on claims
unless the assets
are more than
sufficient to pay
the principal of
all the claims.

SECT. 3. Chapter forty-seven, section seventy-one, of the revised statutes, shall not be construed to require the payment of interest on claims allowed against the bank, unless the assets in the hands of the receivers are more than sufficient to pay the principal of all the claims allowed and outstanding when the final dividend is declared.

Approved February 29, 1872.

Chapter 87.

An act additional to chapter eleven of the revised statutes, relating to the duties of school agents and to amend chapter two hundred and twenty-nine of the laws of eighteen hundred seventy-one, approved February twenty-seven, eighteen hundred and seventy-one.

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

Agents authorized
to employ
teachers to notify
the school committee
when the school
is to commence,
whether

SECT. 1. When school district agents are empowered by the town to employ teachers before the commencement of a term of school, they shall give written notice to some member of the superintending school committee or to the supervisor, when it is