

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE.

1893.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 18, 1840, and March 16, 1842.

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1893.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1893.

CHAP. 312 insert in place thereof the words 'thirty-five;' also by striking out in the tenth line the word "twelve" and inserting in place thereof the word 'thirteen;' also by striking out in the eleventh line the word "four" and inserting in place thereof the word 'five;' so that said section, as amended, shall read as follows :

Salaries of officers of insane hospital.

'SECT. 1. Section one of chapter one hundred and fifteen of the revised statutes is hereby amended by striking out lines fifty-three, fifty-four, fifty-five, fifty-six and fifty-seven and inserting instead thereof the following; 'Four assistant superintendents of the insane hospital, one of whom shall be a female, such sum as the trustees may from time to time vote, not exceeding thirty-five hundred dollars a year for the four; the steward, including his duties as treasurer, such sum as the trustees may from time to time vote, not exceeding thirteen hundred dollars in full for all services; chaplain, three hundred dollars; matron, five hundred dollars.'

Inconsistent acts, repealed.

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 All acts and parts of acts inconsistent with this act, are hereby repealed.

When act shall take effect.

SECT. 3. This act shall take effect January one, eighteen hundred and ninety-three.

Approved March 29, 1893.

Chapter 312.

An Act to amend Sections twenty-five and fifty-one of Chapter seventy of the Revised Statutes, relating to Insolvency.

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

Sec. 25, ch. 70, R. S. amended.

SECT. 1 Section twenty-five of chapter seventy of the revised statutes is hereby amended by inserting after the word "may" in the fifty-eighth line, the words 'within six months after the filing of the claim and' so that said section as amended, shall read as follows :

What debts may be proved.

'SECT. 25. All debts due and payable from the debtor at the time of the filing of the petition by or against him, and all debts then existing but not payable until a future day, a rebate of interest being made when no interest is payable by the terms of the contract, may be proved against the estate of the insolvent. All demands against the insolvent for or on account

—what else may be proved.

of any goods or chattels wrongfully taken, converted or withheld by him, may be proved and allowed as debts, to the amount of the value of the property so taken or withheld, with interest. When the insolvent is liable for unliquidated damages arising out of any contract or promise, or on account of any goods or chattels wrongfully taken, converted or withheld, the court may cause such damages to be assessed, in such mode as it deems best, and the sum so assessed may be proved against the estate. In all cases of contingent debts and contingent liabilities, contracted by the insolvent, and not herein otherwise provided for, the creditor may make claim therefor, and have his claim allowed with the right to share in the dividends if the contingency happens before the order for the final dividend; or he may at any time apply to the court to have the present value of the debt or liability ascertained and liquidated, which shall then be done in such manner as the court orders, and he may prove for the amount so ascertained. Any person liable as bail, surety, guarantor, or otherwise, for the insolvent, who has paid the debt, or any part thereof, in discharge of the whole, may prove such debt, or stand in the place of the creditor, if the creditor has proved the same, although such payments were made after the proceedings in insolvency were commenced. And any person so liable for the insolvent, and who has not paid the whole of such debt, but is still liable for the same or any part thereof, may, if the creditor fails or omits upon request to prove such debt, prove the same either in the name of the creditor or otherwise, as may be provided by the rules of the court, under section ten, and subject to such regulations and limitations as may be established by such rules. Where the insolvent is liable to pay rent or other debt falling due at fixed and stated periods, the creditor may prove for a proportionate part thereof up to the time of the insolvency as if the same fell due from day to day, and not at such fixed and stated periods. No debts other than those specified in this section, shall be proved or allowed against the estate. No debt shall be proved or allowed unless the creditor or his authorized attorney makes oath in substance as follows :

‘I, _____, swear that _____, by or against whom proceedings in insolvency have been instituted, was and still is justly and truly indebted to me in the sum of \$. . . ,

—unliquidated damages, how disposed of.

—contingent debts and liabilities.

—persons, liable as bail, surety, guarantor, or otherwise, who have paid the debt, may prove such debt, or take place of creditor, if he has proved it.

—persons so liable, who have not paid whole debt, proceedings.

—if insolvent is liable to pay rent or other debt falling due at stated periods, creditor may prove for a proportionate part.

—debts not specified, disallowed.

—oath.

—form of oath.

CHAP. 312 that the consideration for said indebtedness was and is _____, that the credit to be given upon said claim is \$ _____, that the only security which I hold upon said claim is _____, and that I have not, nor has any other person for me, to my knowledge or belief, received any other security or satisfaction whatever; and I further swear, that said claim was not procured by me for the purpose of influencing the proceedings in this case; and that I have not, nor has any other person to my knowledge or belief, directly or indirectly entered into any bargain, expressed or implied, whereby I am to receive any exclusive benefit hereafter, or whereby my vote for assignee, or my assent to the debtor's discharge is or shall be in any way affected or controlled.'

—before whom, proof must be made and oath taken.

—interested person may file objections to allowance of claim.

—proceedings.

—notice.

—if claimant fails to appear, claim may be rejected.

Such proof may be made, and such oath taken before the register of any court of insolvency, or at the creditor's own expense it may be proved in like manner before any justice of the peace or notary public, and such register, justice of the peace or notary public, shall forward such demand and prove to the register of the court of insolvency where the proceedings are pending. Such oath or affidavit is prima facie evidence of the facts therein stated. The assignee, or any other person interested, may within six months after the filing of the claim and at any time before final dividend, file objections in writing to the allowance of such claim, and thereupon the judge may, upon such notice to the claimant or his attorney as he directs, order a hearing upon the same, and thereupon may admit the claim to be proved, or may disallow the same, in whole or in part, and at such hearing the judge may require the examination under oath of the claimant or other persons, touching said claims, and all matters connected therewith; whenever the party to be so examined does not reside in the county where such hearing is to be had, such examination may be had before the judge or register of the court of insolvency of the county where such witness resides, and such examination shall be taken upon oral or written interrogatories. The notice given to such witness shall be at least one day for every twenty miles travel of the witness to the place of examination. If the claimant or person making the original proof of debt, after due notice, without good cause neglects or refuses to appear and submit to such examination, the judge may reject such claim without further hearing thereon, and witnesses are entitled to the usual fees allowed in probate courts. The

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assignee, claimant, creditor or other person interested may appeal from the decision of the judge allowing or disallowing in whole or in part any debt, claim or demand against the debtor or his estate, to the supreme judicial court next to be held within the county where the proceedings in insolvency are pending, which appeal shall be taken, heard and determined, as provided in section twelve.'

—assignee, claimant, creditor, or other interested person may appeal.

—how taken and heard.

SECT. 2. Section fifty-one of said chapter seventy is hereby amended by adding to said section the following: 'No debtor who has received a discharge in insolvency proceedings, and, or who has been forced into insolvency by a petition of his creditors shall ever be arrested on mesne process or any judgment recovered on any claim or demand which was proved or might have been proved against his estate,' so that said section, as amended, shall read as follows:

Sec. 51, amended.

'SECT. 51. No creditor shall commence or maintain any suit against the insolvent debtor, upon a claim or demand which he has proved against such debtor in insolvency, until after a discharge has been refused such debtor, provided, that such debtor proceeds with reasonable diligence to obtain such discharge: and no debtor against whom a warrant in insolvency has been issued is liable to arrest on mesne process or execution, where the claim was provable in insolvency during the pendency of the proceedings, unless the same is unreasonably protracted by the fault or neglect of such debtor. No debtor who has received a discharge in insolvency proceedings, and, or who has been forced into insolvency by a petition of his creditors shall ever be arrested on mesne process or any judgment recovered on any claim or demand which was proved or might have been proved against his estate.'

Creditor, cannot bring suit against debtor, until discharge is refused.

—liability to arrest.