

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Acts and Resolves

As Passed by the

Seventy-Eighth Legislature

OF THE

STATE OF MAINE

1917

Including Acts and Resolves of the Special Session of the
Seventy-Seventh Legislature held in 1916.

Published by the Secretary of State, in accordance with the Resolves of the Legislature approved June 28, 1820, March 18, 1840, and March 16, 1842.

THE LEWISTON JOURNAL CO.
LEWISTON, MAINE
1917

PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Seventy-Eighth Legislature

1917

[supplied from page 1 of volume]

Chapter 133.

An Act to Amend Chapter Sixty-seven, Section Twenty-six of Chapter Seventy, Section Forty-four of Chapter Sixty-eight, Sections Nine and Ten of Chapter Seventy-two, Section Ninety-five of Chapter Eighty-six, and Sections Fourteen, Fifteen, Twenty and Twenty-one of Chapter Ninety-two of the Revised Statutes; and to Repeal Sections Forty-two and Forty-three of Chapter Sixty-eight, and Sections Sixteen and Twenty-one of Chapter Ninety-two of the Revised Statutes, Relating to Notice of Appointment of Executors, Administrators, Guardians of Adults, and Conservators; and to Limitation of Actions against the Estates of Deceased Persons.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 67, supplemented. Chapter sixty-seven of the revised statutes is hereby amended by adding the following section:

'Sec. 52. Public notice of appointment of executor, administrator, guardian of adult, or conservator to be given by register of probate. Within two months after the qualification of an executor, administrator, guardian of an adult, or conservator, the register of probate shall cause public notice of such appointment to be given, and shall enter upon the docket the name of the newspaper and the date of the first publication. Such notice may be given in a list showing the name of the estate, the name and residence of each person appointed and, in each case where an agent has been appointed, the name and residence of such agent. Such executor, administrator, guardian or conservator may be required to give such further notice of his appointment as the judge may order. At the time of his qualification, such executor, administrator, conservator or guardian of an adult shall pay to the register of probate the cost of such public notice, together with such reasonable fee for such additional duty as may be fixed by the judge, and he shall be allowed said sums in his account.'

Sec. 2. Inconsistent statutes repealed. Sections forty-two and forty-three of chapter sixty-eight of the revised statutes are hereby repealed.

Sec. 3. R. S., c. 68, § 44, relating to agents or attorneys of non-resident executors and administrators, amended. Section forty-four of chapter sixty-eight is hereby amended so as to read as follows:

'Sec. 44. Not to be appointed unless such agent or attorney has been appointed. No person residing out of the state shall be appointed an executor or administrator, unless he shall have appointed an agent or attorney in the state. Such appointment shall be made in writing and shall give the name and address of the agent or attorney. Said written appointment shall be filed and recorded in the registry of probate for the county in which the principal is appointed, and by such appointment the subscriber shall agree that the service of any legal process against him as such executor or administrator, or that the service of any such process against him in his individual capacity in any action founded upon or arising out of any of his acts or omissions as such executor or administrator shall, if made on such agent, have like effect as if made on himself personally within the state, and such service shall have such effect. An executor or administrator who after his appointment removes from and resides with-

out the state shall so appoint an agent within thirty days after such removal, and give public notice thereof. If an agent appointed under the provisions of this section dies or removes from the state before the final settlement of the accounts of his principal, another appointment shall be made, filed and recorded as above provided, and public notice thereof given; the powers of an agent appointed under the provisions of this section shall not be revoked prior to the final settlement of the estate unless another appointment shall be made as herein provided. Neglect or refusal by an executor or administrator to comply with any provision of this section shall be cause for removal. An executor or administrator residing out of the state shall not appoint his co-executor or co-administrator, residing in the state, as his agent.'

Sec. 4. R. S., c. 72, § 9, relating to guardians, amended. Section nine of chapter seventy-two of the revised statutes is hereby amended by striking out the words "give notice of their appointment and make return thereof to the registry of probate in the manner provided by law relating to notices of appointment by executors and administrators. They" in the first, second, third and fourth lines of said section, so that said section, as amended, shall read as follows:

'**Sec. 9. Provisions as to notice of appointment repealed.** Such guardians shall have the custody of the persons of their wards, if resident in the state, except so far as the court of probate may from time to time otherwise order; and every guardian appointed over any person for gambling, idleness, drinking or debauchery, shall inculcate upon him habits of sobriety and industry, and when of sufficient health and strength, with the approbation of the judge, may bind him out to labor, not exceeding six months at any one time, or employ him in his own service; giving credit for his earnings, or such sum as he receives therefor.'

Sec. 5. R. S., c. 72, § 10, relating to conservators, amended. Section ten of chapter seventy-two is hereby amended by striking out the words "to giving notice of appointment and" in the next to the last line in said section, so that said section as amended shall read as follows:

'**Sec. 10. Provisions as to notice of appointment repealed.** Whenever any person shall deem himself unfitted, by reason of infirmities of age or physical disability, to manage his estate with prudence and understanding, he may apply to the judge of probate for the county in which he resides, for the appointment of a conservator of his estate, and thereupon the judge of probate may upon hearing, after such notice as he may order, appoint some suitable person as conservator of his estate, and such appointment shall not disfranchise the person for whose estate such conservator is appointed. The person so appointed shall give bond to the judge of probate, in such sum and with such sureties, resident in the state, or with a surety company authorized to do business in the state, as surety, as the judge accepts, conditioned as provided in section twelve, and all provisions of law relating to the management of estates of adult persons under guardianship shall apply to such conservator.'

CHAP. 133

Sec. 6. R. S., c. 86, § 95, relating to civil actions in case of death of either party. Section ninety-five of chapter eighty-six of the revised statutes is hereby amended by striking out the words "affidavit has been filed in the probate office that notice of his appointment has been given by him" and inserting in their place the words 'he has qualified as such executor or administrator' and by striking out the words "sections sixteen and" in the eleventh line and inserting in place thereof the word 'section,' so that such section as amended may read as follows:

'Sec. 95. Limitations. Provisions as to filing of affidavit of appointment repealed. R. S., c. 92, § 16, not applicable. If a person entitled to bring, or liable to any action before mentioned, dies before or within thirty days after the expiration of the time herein limited therefor, and the cause of action survives, the action may be commenced by the executor or administrator at any time within eighteen months after his appointment, and not afterwards, if barred by the other provisions hereof; actions on such claims may be commenced against the executor or administrator, after one year, or within one year subject to continuance without costs, and within eighteen months after he has qualified as such executor or administrator, and not afterwards, if barred by the other provisions hereof, except as provided in section eighteen of chapter ninety-two.'

Sec. 7. R. S., c. 92, § 14, relating to claims against estates. Section fourteen of chapter ninety-two of the revised statutes is hereby amended by striking out the words "affidavit has been filed in the registry of probate that notice has been given by said executor or administrator of his appointment" and inserting the words 'his qualification as such executor or administrator,' and by striking out the word "sixteen," in the thirteenth line, so that said section as amended shall read as follows:

'Sec. 14. Affidavit not necessary. Provisions of R. S., c. 92, § 16, not applicable. All claims against estates of deceased persons, except for legacies and distributive shares and for labor and materials for which suit may be commenced under section thirty-four of chapter ninety-six, shall be presented to the executor or administrator in writing, or filed in the registry of probate, supported by an affidavit of the claimant, or of some other person cognizant thereof, either before or within eighteen months after his qualification as such executor or administrator; and no action shall be commenced against such executor or administrator on any such claim until thirty days after the presentation or filing of such claim as above provided. Any claim not so presented or filed shall be forever barred against the estate, except as provided in sections seventeen, nineteen and twenty-two of this chapter.'

Sec. 8. R. S., c. 92, § 15, relating to continuance of action in civil cases against executors or administrations, amended. Section fifteen of chapter ninety-two of the revised statutes is hereby amended so as to read as follows:

'Sec. 15. Affidavit not necessary. R. S., c. 92, § 16, not applicable. Actions against executors or administrators, on such claims, if brought

CHAP. 133

within one year after their qualification, shall be continued without cost to either party, until said year expires and be barred by a tender of the debt within the year, except actions on claims not affected by the insolvency of the estate and actions on appeals from commissioners of insolvency or other commissioners appointed by the judge of probate. No action shall be maintained against an executor or administrator on a claim or demand against the estate, except for legacies and distributive shares, and except as provided in section eighteen, unless commenced and served within twenty months after his qualification as such executor or administrator. When an executor, or administrator, guardian or testamentary trustee residing out of the state, has no agent or attorney in the state, service may be made on one of his sureties in the same manner and with the same effect as if made on him.'

Sec. 9. R. S., c. 92, § 16, relating to action when funds come into hands of executor, etc., after twenty months, repealed. Section sixteen of chapter ninety-two of the revised statutes is hereby repealed.

Sec. 10. R. S., c. 92, § 20, relating to actions against administrators de bonis non. Section twenty of chapter ninety-two of the revised statutes is hereby amended by striking out the whole of said section and inserting in place thereof the following:

'Sec. 20. New administration deemed continuance of preceding one. Periods between, how reckoned. When an executor or administrator after qualification dies, resigns, or is removed, without having fully administered the estate, and a new administrator is appointed, such new administration shall be deemed to be a continuation of the preceding administration, and all limitations which could be claimed for or against the predecessor may be claimed for or against such successor: Provided, however, that the time when there is no representative of the estate shall not be reckoned as part of the periods for the filing or proof of claims or limitations for bringing suits; and such periods, and generally the periods referred to where no provisions to the contrary is made, shall be reckoned exclusive of such time.'

Sec. 11. R. S., c. 92, § 21, relating to failure of administrator, etc., to give notice of his appointment, repealed. Section twenty-one of chapter ninety-two of the revised statutes is hereby repealed.

Sec. 12. R. S., c. 70, § 26, relating to payment of legacies, amended. Section twenty-six of chapter seventy is hereby amended by striking out the words "unless he has failed to give notice of his appointment as required by law and the judge of probate," so that said section as amended shall read as follows:

'Sec. 26. Responsibility of executor or administrator not affected by failure to give value of his appointment. Legacies shall be payable in one year after final allowance of the will; but such payments shall not be affected by any claims presented to the executor, or administrator with the will annexed, or filed in the probate office, after the expiration of said one year and after such payment; nor shall the executor or administrator

CHAP. 134

with the will annexed be responsible for the payments of said legacies on account of such claims.'

Sec. 13. R. S., c. 86, relating to civil action, etc., supplemented. Chapter eighty-six is hereby amended by adding thereto the following section:

'**Sec. 109. Actions barred when no administration for six years after death of decedent.** Where no administration is had upon the estate of a deceased person within six years from the date of death of said decedent, and no petition for administration is pending, all actions upon any claim against said decedent shall be barred.'

Sec. 14. Executor, administrator, etc., when deemed to be qualified. For the purposes of this act, an executor, administrator, guardian of an adult, or conservator, shall be deemed to be qualified when his bond has been filed and approved by the judge of probate; provided however, that in cases where no bond is required the date of appointment shall be deemed to be the date of qualification.

Approved March 29, 1917.

Chapter 134.

An Act to Amend Section Thirty of Chapter Sixteen of the Revised Statutes, and Providing for Kindergartens as Part of the Common School Course.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 16, § 30, relating to school age, supplemented. Section thirty of chapter sixteen of the revised statutes is hereby amended by adding to said section the following words:

'Provided, however, that the superintending school committee of any city or town may, and upon the filing with the municipal officers of such city or town of a petition not less than one month before the annual town meeting by the parents or guardians of thirty or more children between four and six years of age living within a mile of a public elementary school, shall, unless otherwise instructed by the town or city, maintain a kindergarten or kindergartens as a part of the common school course, and pupils shall be allowed to attend such a kindergarten or kindergartens upon reaching the age of four years; provided further, that unless the average daily attendance in any kindergarten shall be fifteen or more for any school year the superintending school committee, upon the recommendation of the superintendent of schools, may discontinue the school; provided further, that no person shall be allowed to teach in any kindergarten maintained under the provisions of this section who has not completed at least a two years' course in kindergarten training and received a certificate or diploma from a recognized kindergarten training school approved by the state superintendent of public schools,' so that said section when amended shall read as follows: