

missioners as are or may be appointed, and vested with similar powers for the above purpose by the legislature of *New York*, and in conjunction with them to ascertain, run, and mark the said boundary line; which line, when so ascertained, shall forever afterwards be held and considered to be the true and just boundary line of jurisdiction between that part of this Commonwealth and the State aforesaid.

Their powers.

And it is further enacted, by the authority aforesaid, That the Commissioners aforesaid on the part of this Commonwealth, or any three of them, are authorized and empowered to employ a surveyor or surveyors, and a sufficient number of chainbearers, to ascertain the said line as aforesaid; and in conjunction with such Commissioners as are or may be appointed by the legislature of *New York* as aforesaid, to agree upon and confirm the titles of individuals to such lands as they may now respectively hold, in virtue of any grant or grants made by either of the said governments, upon such terms and in such manner as they may judge reasonable.

To be commissioned by the Governor.

And it is further enacted, by the authority aforesaid, That the Commissioners aforesaid on the part of this Commonwealth, shall, prior to their proceeding on the business herein assigned them, receive a commission from the Governor with the seal of the Commonwealth thereto affixed, agreeable to the powers with which they are vested in and by this act.

Former act repealed.

And be it further enacted by the authority aforesaid, That an act passed by the Legislature of this Commonwealth, on the eighteenth day of *March* last, bearing the same title with this act, be, and hereby is repealed and rendered null and void.

June 4, 1784.

1784. — Chapter 2.

[May Session, ch. 2.]

Chap. 2

AN ACT FOR THE DISTRIBUTION OF INSOLVENT ESTATES.

Insolvent estates, how to be distributed.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That when the estate of any person deceased shall be insolvent or insufficient to pay all just debts which the deceased owed, the same shall be distributed to and among all the creditors, in proportion to the sums to them

respectively due and owing, saving that debts due for all rates and taxes, and debts due to the Commonwealth, and for the last sickness and necessary funeral expences of the deceased are to be first paid. And the executor or administrator appointed to any such insolvent estate before payment to any be made (except as aforesaid) shall represent the condition and circumstances thereof unto the Judge of Probate. And the said Judge shall nominate and appoint two or more fit persons to be commissioners, with full power to receive and examine all claims of the several creditors; and such commissioners shall cause the times and places of their meeting, to attend the creditors for receiving and examining their claims, to be made known by causing notifications thereof to be posted up in some public place, in the shire town of the county where such deceased person last dwelt, and of the two next counties, or by causing an advertisement thereof to be printed in such public newspaper or papers as the Judge of Probate shall direct; and six months and such further time not exceeding eighteen months, (as the circumstances of any estate may require) shall be allowed by the said judge to the creditors for bringing in and proving their claims; at the end of which limited time, such commissioners shall make their report, and present upon oath a list of all the claims that shall have been laid before them, with the sums they shall allow on each claim unto the said Judge; and the Judge shall order them meet recompence out of the deceased's estate for their care and labor in examining the claims; and the debts due for all rates and taxes, and debts due to the Commonwealth, debts incurred for the last sickness of the deceased, and necessary funeral expences as afore provided, being first deducted, shall order the residue and remainder of the estate both real and personal, (the real estate being sold according to law) to be paid and distributed to and among the creditors who shall have made out their claims with the commissioners as aforesaid, in proportion to the sums unto them respectively due and owing, saving unto the widow (if any be) her right of dower in the housing and lands of the deceased, which dower (unless the reversion shall be sold by the executor or administrator, and distributed with the other estate which the Judge may order if he see fit, upon application therefor) at the expiration of her term, shall also be distributed among the creditors aforesaid in like

Judge of Probate to appoint Commissioners.

Proviso.

proportion. *Provided*, That notwithstanding the report of any commissioners, any creditor whose claim is wholly or in part rejected, may have the same determined at the common law, in case he shall give notice thereof in writing at the Probate office within twenty days after such report shall be made, and bring and prosecute his action as soon as may be; and in case the executor or administrator shall be dissatisfied with any creditor's claim allowed by the commissioners, and shall give notice thereof at the Probate office, and also to the creditor, within twenty days as aforesaid, such claim shall by the Judge of Probate be struck out of the commissioners report, unless such creditors shall commence and prosecute at the common law his claim as aforesaid as speedily as the same can be done, or unless the creditor and the executor or administrator shall agree before the Judge to submit the same to reference; in which case the determination of the referees shall be final; and when a claim shall be disputed in the course of the common law as aforesaid, execution shall not issue as in common cases, but the judgment of the Court respecting the same, shall be the amount of the claim, and added to or deducted from the commissioners report, as the case may require. And no action brought against any executor or administrator after the estate shall be represented insolvent, shall be sustained, except for debts due to the Commonwealth, debts due for all rates or taxes, for the deceased's last sickness and funeral charges, unless the executor or administrator having objection to the claim upon which such action shall be brought, shall consent to have the same settled by course of law, in which case the judgment of the Court shall determine the said claim, and be reported by the commissioners as such. And all actions brought against any executor or administrator before the estate is represented insolvent, shall be continued until it shall appear whether the said estate is insolvent or not, and if found insolvent, the process shall be conducted as above provided. And if any creditor shall not make out his claim with the commissioners within the time of their commission, or at the common law, or before referees, in the manner this act provides, he shall be forever barred of his debt: unless such creditor shall find some other estate of the deceased, not inventoried or accounted for by the executor or administrator before distribution.

No action to be sustained, except for debts due to the Commonwealth.

June 15, 1784.