

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

House Document

No. 438

H. P. 1281 House of Representatives, Feb. 21, 1929.

Referred to Committee on Revision of Statutes and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Aldrich of Topsham.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE

AN ACT Relative to Probate Courts.

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

Section 1. Section eight of chapter sixty-seven of the
2 revised statutes is hereby amended by inserting at the end
3 thereof the following additional paragraph:

‘When any judge of probate holds court, or a hearing in
2 any probate matter, or in equity, in any county other than
3 the one in which he resides, such judge shall be reimbursed
4 by the county in which such court or hearing is held, for
5 his expenses actually and reasonably incurred, upon presen-
6 tation to the county commissioners of said county of a
7 detailed statement of such expenses.’

Sect. 2. Section seventeen of chapter sixty-seven of the

2 revised statutes is hereby amended by striking out the words
3 “to an amount in either case of not less than one hundred
4 dollars” in the fourth and fifth lines of said section so that
5 said section as amended shall read as follows:

‘Sect. 17. *When judge or register is interested, proceedings to be in adjoining county.* When a judge or register
3 of probate is interested in his own right, trust, or in any
4 other manner, or is within the degree of kindred, by which
5 in law, he may, by possibility, be heir to any part of the
6 estate of the person deceased, or is named as executor,
7 trustee, or guardian of minor children, in the will of any
8 deceased resident of the county, such estate shall be settled
9 in the probate court of any adjoining county, which shall
10 have as full jurisdiction thereof, as if the deceased had died
11 therein. If his interest arises after jurisdiction of such
12 estate has been regularly assumed, or existed at the time
13 of his appointment to office, and in all cases where an exe-
14 cutor, administrator, guardian or trustee, whose trust is
15 not fully executed, becomes judge or register of probate
16 for the county in which his letters were granted, further
17 proceeding therein shall be transferred to the probate court
18 in any adjoining county, and there remain till completed,
19 as if such court had had original jurisdiction thereof, unless
20 said disability is removed before that time. Whenever in
21 any case within the provisions of this section, the disability
22 of the judge or register is removed before the proceedings
23 have been fully completed, the proceedings shall then be

24 transferred to the probate court in the county of original
25 jurisdiction or to the probate court which otherwise would
26 have had jurisdiction; and in all such cases the register in
27 such adjoining county shall transmit copies of all records
28 relating to such estate, to the probate office of the county
29 where such estate belongs, to be there recorded.'

Sect. 3. Section nineteen of chapter sixty-seven of the
2 revised statutes is hereby amended by striking out the words
3 "or by any woman appointed by the governor, with the ad-
4 vice and consent of the council, to administer oaths in the
5 state," in the eighth, ninth, and tenth lines thereof, so that
6 said section as amended shall read as follows:

'Sect. 19. *Oaths required may be taken before certain of-*
2 *icials within or without the state.* All oaths required to be
3 taken by executors, administrators, trustees or guardians,
4 and all oaths required of commissioners of insolvency, ap-
5 praisers and dividers of estates, or of any other persons in
6 relation to any proceeding in the probate court, or to per-
7 petuate the evidence of the publication of any order of no-
8 tice, or of any notice of the time and place of sale of real
9 estate by license of a judicial or probate court, may be ad-
10 ministered by the judge or register of probate, by any jus-
11 tice of the peace, or notary public; and a certificate thereof,
12 when taken out of court, shall be returned into the registry
13 of probate, and there filed. When any person of whom
14 such oath is required, including any person making an affi-
15 davit in support of a claim against an estate, resides tem-

16 porarily or permanently without the state, the oath may be
17 taken before a notary public without the state, a commis-
18 sioner for the state of Maine, or a United States consul.'

Sect. 4. Section thirty-two of chapter sixty-seven of the
2 revised statutes as amended by chapter one hundred sixty-
3 seven of the public laws of nineteen hundred nineteen is
4 hereby amended by striking out the words "for such sum
5 and with such sureties as the judge approves," in the fourth
6 line of said section as amended, and by inserting in place
7 thereof the words 'with sufficient sureties, resident in the
8 state, or with a surety company authorized to do business
9 in the state as surety, in such sum as the judge approves,'
10 so that said section as amended shall read as follows:

'Sect. 32. *Appellant to file bond and reasons of appeal;*
2 *service on other parties; service on resident attorney of*
3 *record to be sufficient.* Within the time limited for claim-
4 ing an appeal, the appellant shall file, in the probate office,
5 his bond to the adverse party, or to the judge of probate
6 for the benefit of the adverse party, with sufficient sureties,
7 resident in the state, or with a surety company authorized
8 to do business in the state as surety, in such sum as the
9 judge approves; conditioned to prosecute his appeal with
10 effect, and to pay all intervening costs and damages, and
11 such costs as the supreme court taxes against him, and he
12 shall also file in the probate office the reasons of appeal;
13 and, fourteen days at least before the sitting of the appellate
14 court, he shall serve all the parties who appeared before

15 the judge of probate on the case that have entered or caused
16 to be entered their appearance in the docket of said court,
17 with a copy of such reasons, attested by the register. When
18 a party appears by an attorney residing in this state before
19 the judge of probate in any case, and an appeal is taken,
20 the service of a copy of the reasons of appeal upon such
21 attorney shall be sufficient. In case of controversy between
22 a person under guardianship and his guardian, the supreme
23 court may sustain an appeal on the part of the ward with-
24 out such bond.'