

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)

EIGHTY-FIRST LEGISLATURE

HOUSE

NO. 198

House of Representatives, Feb. 26, 1923.

Referred to Committee on Judiciary and five hundred copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Archibald of Houlton.

STATE OF MAINE

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

AN ACT to Protect and Conserve the Estates of Absentees.

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

Section 1. If a person entitled to or having an interest
2 in property within the jurisdiction of the state has dis-
3 appeared or absconded from the place within or without the
4 state where he was last known to be, and has no agent in
5 the state, and it is not known where he is, or if such person,
6 having a wife or minor child, dependent to any extent upon
7 him for support, has thus disappeared or absconded without
8 making sufficient provision for such support, and it is not
9 known where he is, or, if it is known that he is without
10 the state, any one who would under the law of the state,

11 be entitled to administer upon the estate of such absentee
12 if he were deceased, or if no one is known to be so entitled,
13 any suitable person, or such wife, or some one in her or
14 such minor's behalf, may file a petition under oath in the
15 probate court for the county where any such property is
16 situated or found, stating the name, age, occupation and
17 last known residence or address of such absentee, the date
18 and circumstances of the disappearance or absconding, and
19 the names and residence of other persons, whether mem-
20 bers of such absentee's family or otherwise of whom in-
21 quiry may be made, and containing a schedule of the
22 property, real and personal, so far as known, and its loca-
23 tion within the state, and praying that such property may
24 be taken possession of and a receiver thereof appointed
25 under this chapter.

Sect. 2. The court may thereupon issue a warrant directed
2 to the sheriff or his deputy, which may run throughout the
3 state, commanding him to take possession of the property
4 named in said schedule and hold it subject to the order of
5 the court and make return of said warrant as soon as may
6 be with his doings thereon with a schedule of the property
7 so taken. The officer shall post a copy of the warrant upon
8 each parcel of land named in the schedule and cause so
9 much of the warrant as relates to land to be recorded in
10 the registry of deeds for the county and district where the
11 land is located. He shall receive such fees for serving the
12 warrant as the court allows, but not more than those estab-

13 lished by law for similar service upon a writ of attachment.
14 If the petition is dismissed, said fees and the cost of pub-
15 lishing and serving the notice hereinafter provided shall
16 be paid by the petitioner; if a receiver is appointed, they
17 shall be paid by the receiver and allowed in his account.

Sect. 3. Upon the return of such warrant, the court may
2 issue a notice reciting the substance of the petition, warrant
3 and officer's return, which shall be addressed to such ab-
4 sentee and to all persons who claim an interest in said
5 property, and to all whom it may concern, citing them to
6 appear at a time and place named and show cause why a
7 receiver of the property named in the officer's schedule
8 should not be appointed and said property held and dis-
9 posed of under this chapter.

Sect. 4. The return day of said notice shall be not less
2 than thirty nor more than sixty days after its date. The
3 court shall order said notice to be published once in each
4 of three successive weeks in one or more newspapers within
5 the state, and to be posted in two or more conspicuous
6 places in the town within the state where the absentee last
7 resided or was known to have been either temporarily or
8 permanently and upon each parcel of land named in the
9 officer's schedule, and a copy to be mailed to the last known
10 address of such absentee. The court may order other and
11 further notice to be given within or without the state.

Sect. 5. The absentee or any person who claims an in-
2 terest in any of the property may appear and show cause

3 why the prayer of the petition should not be granted. The
4 court may after hearing dismiss the petition and order the
5 property in possession of the officer to be returned to the
6 person entitled thereto, or it may appoint a receiver of the
7 property which is in the possession of the officer and named
8 in his schedule. If a receiver is appointed the court shall
9 find and record the date of the disappearance or abscond-
10 ing of the absentee; and such receiver shall give bond to
11 the judge of probate and his successors in office in such
12 sum and with such condition as the court orders.

Sect. 6. After the approval of such bond the court may
2 order the sheriff or his deputy to transfer and deliver to
3 such receiver the possession of the property under the
4 aforesaid warrant, and the receiver shall file in the registry
5 of probate a schedule of the property received by him.

Sect. 7. Such receiver upon petition filed by him may
2 be authorized and directed to take possession of any addi-
3 tional property within the state which belongs to such
4 absentee and to demand and collect all debts due such
5 absentee from any person within the state, and hold the
6 same as if it had been transferred and delivered to him by
7 the officer.

Sect. 8. If such absentee has left no corporeal property
2 within the state, but there are debts and obligations due or
3 owing to him from persons within the state, a petition may
4 be filed as provided in section one, stating the nature and
5 amount of such debts and obligations, so far as known, and

6 praying that a receiver thereof may be appointed. The
7 court may thereupon issue a notice as above provided, with-
8 out issuing a warrant, and may, upon the return of said
9 notice and after a hearing, dismiss the petition or appoint
10 a receiver and authorize and direct him to demand and
11 collect the debts and obligations specified in said petition.
12 The receiver shall give bond as provided in section five, and
13 shall hold the proceeds of such debts and obligations and
14 all property received by him, and distribute the same as
15 hereinafter provided. He may be further authorized and
16 directed as provided in the preceding section.

Sect. 9. The court may make orders for the care, custody,
2 leasing and investing of all property and its proceeds in
3 the possession of the receiver. If any of said property
4 consists of live animals or is perishable or cannot be kept
5 without great or disproportionate expense, the court may,
6 after the return of the warrant, order such property to be
7 sold at public or private sale. After the appointment of a
8 receiver, upon his petition and after notice, the court may
9 order all or part of said property, including the rights of
10 the absentee in land, to be sold at public or private sale to
11 supply money for payments authorized by this chapter or
12 for reinvestment approved by the court.

Sect. 10. The court may order said property or its pro-
2 ceeds acquired by mortgage, lease or sale to be applied in
3 payment of charges incurred or that may be incurred in
4 the support and maintenance of the absentee's wife and

5 minor children, and to the discharge of such debts and
6 claims for alimony as may be proved against said absentee.

Sect. 11. The court may authorize the receiver to adjust
2 by arbitration or compromise any demand in favor of or
3 against the estate of such absentee.

Sect. 12. The receiver shall be allowed such compensa-
2 tion and disbursements as the court orders, to be paid out
3 of said property or proceeds. If within fourteen years after
4 the date of the disappearance and absconding as found and
5 recorded by the court, such absentee appears, or an ad-
6 ministrator, executor, assignee in insolvency or trustee in
7 bankruptcy of said absentee is appointed, such receiver
8 shall account for, deliver and pay over to him the re-
9 mainder of said property. If said absentee does not appear
10 and claim said property within said fourteen years, all his
11 right, title and interest in said property, real or personal, or
12 the proceeds thereof shall cease, and no action shall be
13 brought by him on account thereof.

Sect. 13. If at the expiration of said fourteen years said
2 property has not been accounted for, delivered or paid
3 over under the preceeding section, the court shall order the
4 distribution of the remainder to the persons to whom, and
5 in the shares and proportions in which, it would have been
6 distributed if said absentee had died intestate within the
7 state on the day fourteen years after the date of the dis-
8 appearance or absconding as found and recorded by the
9 court.

Sect. 14. If such receiver is not appointed within thirteen
2 years after the date found by the court under section five,
3 the time limited for accounting for, or fixed for distributing,
4 said property or its proceeds, or for barring actions rela-
5 tive thereto, shall be one year after the date of the appoint-
6 ment of the receiver instead of the fourteen years pro-
7 vided in the two preceding sections.