

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-SECOND LEGISLATURE

S. P. No. 122

S. D. No. 50

In Senate, Feb. 5, 1925.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Hussey of Aroostook.

STATE OF MAINE

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

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
4 the state where he was last known to be, and has no agent
5 in the state, and it is not known where he is or if such per-
6 son, having a wife or minor child, dependent to any extent
7 upon him for support, has thus disappeared or absconded
8 without making sufficient provision for such support, and
9 it is not known where he is, or, if it is known that he is with-
10 out the state, any one who would under the law of the state,
11 be entitled to administer upon the estate of such absentee if

12 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 such
14 minor's behalf, may file a petition under oath in the probate
15 court for the county where any such property is situated
16 or found, stating the name, age, occupation and last known
17 residence or address of such absentee, the date and circum-
18 stances of the disappearance or absconding, and the names
19 and residence of other persons whether members of such
20 absentee's family or otherwise of whom inquiry may be
21 made, and containing a schedule of the property, real and
22 personal, so far as known, and its location within the state,
23 and praying that such property may be taken possession of
24 and a receiver thereof appointed 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 related 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 be

16 paid by the petitioner ; if a receiver is appointed, they shall be
17 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 prop-
5 erty, and to all whom it may concern, citing them to appear
6 at a time and place named and show cause why a receiver
7 of the property named in the officer's schedule should not
8 be appointed and said property held and disposed of under
9 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 places
6 in the town within the state where the absentee last resided
7 or was known to have been either temporarily or permanent-
8 ly and upon each parcel of land named in the officer's sched-
9 ule and a copy to be mailed to the last known address of
10 such absentee. The court may order other and further no-
11 tice to be given within or without the state.

Sect. 5. The absentee or any person who claims an interest
2 in any of the property may appear and show cause why
3 the prayer of the petition should not be granted. The court
4 may after hearing dismiss the petition and order the prop-
5 erty in possession of the officer to be returned to the person
6 entitled thereto, or it may appoint a receiver of the prop-

erty which is in the possession of the officer and named in his schedule. If a receiver is appointed the court shall find and record the date of the disappearance or absconding of the absentee; and such receiver shall give bond to the judge of probate and his successors in office in such sum and with such condition as the court orders.

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

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

Sect. 8. If such absentee has left no corporeal property within the state, but there are debts and obligations due or owing to him from persons within the state, a petition may be filed as provided in section one, stating the nature and amount of such debts and obligations, so far as known, and praying that a receiver thereof may be appointed. The court may thereupon issue a notice as above provided, without issuing a warrant, and may, upon the return of said notice and after a hearing, dismiss the petition or appoint a receiver and authorize and direct him to demand and collect the debts and obligations specified in said petition. The receiver shall

12 give bond as provided in section five and shall hold the pro-
13 ceeds of such debts and obligations and all property re-
14 ceived by him, and distribute the same as hereinafter pro-
15 vided. He may be further authorized and directed as pro-
16 vided 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 the
3 possession of the receiver. If any of said property consists
4 of live animals or is perishable or cannot be kept without
5 great or disproportionate expense, the court may, after the
6 return of the warrant, order such property to be sold at
7 public or private sale. After the appointment of a receiver,
8 upon his petition and after notice, the court may order all
9 or part of said property, including the rights of the absentee
10 in land, to be sold at public or private sale to supply money
11 for payments authorized by this chapter or for reinvestment
12 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 the
4 support and maintenance of the absentee's wife and minor
5 children, and to the discharge of such debts and claims for
6 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 seven years after
4 the date of the disappearance and absconding as found and
5 recorded by the court, such absentee appears, or an admin-
6 istrator, executor, assignee in insolvency or trustee in bank-
7 ruptcy of said absentee is appointed, such receiver shall ac-
8 count for, deliver and pay over to him the remainder of
9 said property. If said absentee does not appear and claim
10 said property within said seven years, all his right, title and
11 interest in said property, real or personal, or the proceeds
12 thereof shall cease, and no action shall be brought by him
13 on account thereof.

Sect. 13. If at the expiration of said seven years said
2 property has not been accounted for, delivered or paid over
3 under the preceding section, the court shall order the dis-
4 tribution of the remainder to the persons to whom, and in
5 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 seven years after the date of the disappear-
8 ance or absconding as found and recorded by the court.

Sect. 14. If such receiver is not appointed within six
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 relative
5 thereto, shall be one year after the date of the appointment
6 of the receiver instead of the seven years provided in the
7 two preceding sections.