

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

House Document

No. 582

H. P. 1579 House of Representatives, March 1, 1929.

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

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Stone of Biddeford.

STATE OF MAINE

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

AN ACT Relative to Estate 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 in
2 property within the jurisdiction of the state has disappeared
3 or absconded from the place within or without the state
4 where he was last known to be, and has no agent in the
5 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 the
10 state, any one who would under the law of the state be

11 entitled to administer upon the estate of such absentee if he
12 were deceased, or if no one is known to be so entitled, any
13 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 cir-
18 cumstances of the disappearance or absconding, and the
19 names and residence of other persons, whether members
20 of such absentee's family or otherwise, of whom inquiry
21 may be made, and containing a schedule of the property,
22 real and personal, so far as known, and its location within
23 the state, and praying that such property may be taken
24 possession of and a receiver thereof appointed under this
25 chapter.

Sect. 2. The court may thereupon issue a warrant di-
2 rected to the sheriff or his deputy, which may run through-
3 out the state, commanding him to take possession of the
4 property named in said schedule and hold it subject to the
5 order of the court and make return of said warrant as soon
6 as may be with his doings thereon with a schedule of the
7 property so taken. The officer shall post a copy of the
8 warrant upon each parcel of land named in the schedule
9 and cause so much of the warrant as relates to land to be
10 recorded in the registry of deeds for the county 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
17 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, war-
3 rant and officer's return, which shall be addressed to such
4 absentee 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
7 a 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 with-
5 in 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 absconding
10 of the absentee; and such receiver shall give bond to the
11 judge of probate and his successors in office in such sum
12 and with such condition as the court orders, with a surety
13 company approved by the court as surety thereon.

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 afore-
4 said warrant, and the receiver shall file in the registry of
5 probate a schedule of the property received by him, and an
6 appraisal shall be made and the receiver shall render ac-
7 counts as in equity.

Sect. 7. Such receiver upon petition filed by him may be
2 authorized and directed to take possession of any addi-
3 tional property within the state which belongs to such ab-
4 sentee and to demand and collect all debts due such absentee
5 from any person within the state, and hold the same as if
6 it had been transferred and delivered to him by 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,
6 and 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 the
3 possession of the receiver. If any of said property con-
4 sists of live animals or is perishable or cannot be kept with-
5 out great or disproportionate expense, the court may, after
6 the return of the warrant, order such property to be sold
7 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 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 fourteen years
4 after the date of the disappearance and absconding as found
5 and recorded by the court, such absentee appears, or an
6 administrator, executor, assignee in insolvency or trustee
7 in 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,
12 or 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 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 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 distribut-
4 ing, said property or its proceeds, or for barring actions
5 relative thereto, shall be one year after the date of the
6 appointment of the receiver instead of the fourteen years
7 provided in the two preceding sections.

Sect. 15. The treasurer of state shall be made a party to
2 every such petition and shall be given due notice of all
3 subsequent proceedings under this chapter.