

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 549

H. P. 1235

House of Representatives, February 12, 1935.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Burnham of Kittery.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT Relative to the Settlement of Estates of Absentees.

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

Sec. 1. Estates of missing persons may be administered. If a person entitled to or having an interest in property within the jurisdiction of the state has disappeared or absconded from the place within or without the state where he was last known to be, and has no agent in the state, and it is not known where he is, or if such person, having a wife or minor child, dependent to any extent upon him for support, has thus disappeared or absconded without making sufficient provision for such support, and it is not known where he is, or, if it is known that he is without the state, anyone who would under the law of the state be entitled to administer upon the estate of such absentee if he were deceased, or if no one is known to be so entitled, any suitable person, or such wife, or some one in her or such minor's behalf, may file a petition under oath in the probate court for the county where any such property is situated or found, stating the name, age, occupation and last known residence or address of such absentee, the date and circumstances of the disappearance or absconding, and the names and residences of other persons, whether members of such absentee's family or otherwise, of whom inquiry may be made, and containing a schedule of the property, real and personal, so far as known,

and its location within the state, and praying that such property may be taken possession of and a receiver thereof appointed under this chapter.

Sec. 2. Issue of warrant; fees. The court may thereupon issue a warrant directed to the sheriff or his deputy, which may run throughout the state commanding him to take possession of the property named in said schedule and hold it subject to the order of the court and make return of said warrant as soon as may be with his doings thereon with a schedule of the property so taken. The officer shall post a copy of the warrant upon each parcel of land named in the schedule and cause so much of the warrant as relates to land to be recorded in the registry of deeds for the county and district where the land is located. He shall receive such fees for serving the warrant as the court allows, but not more than those established by law for similar service upon a writ of attachment. If the petition is dismissed, said fees and the cost of publishing and serving the notice hereinafter provided shall be paid by the petitioner; if a receiver is appointed, they shall be paid by the receiver and allowed in his account.

Sec. 3. Issue of notice. Upon the return of such warrant, the court may issue a notice reciting the substance of the petition, warrant and officer's return, which shall be addressed to such absentee and to all persons who claim an interest in said property, and to all whom it may concern, citing them to appear at a time and place named and show cause why a receiver of the property named in the officer's schedule should not be appointed and said property held and disposed of under this chapter.

Sec. 4. Return day. The return day of said notice shall be not less than 30 nor more than 60 days after its date. The court shall order said notice to be published once in each of 3 successive weeks in one or more newspapers within the state. The court may order other and further notice to be given within or without the state.

Sec. 5. Interested parties may plead. The absentee or any person who claims an interest in any of the property may appear and show cause why the prayer of the petition should not be granted. The court may after hearing dismiss the petition and order the property in possession of the officer to be returned to the person entitled thereto, or it may appoint a receiver of the property 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 and such sum and with such condition as the court orders.

Sec. 6. Transfer to receiver. 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.

Sec. 7. Authority of receiver. 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.

Sec. 8. Provision for collecting debts. 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 give bond as provided in section 5 and shall hold the proceeds of such debts and obligations and all property received by him, and shall distribute the same as hereinafter provided. He may be further authorized and directed as provided in the preceding section.

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

Sec. 10. Provisions for support of dependents. The court may order said property or its proceeds acquired by mortgage, lease or sale to be applied in payment of charges incurred or that may be incurred in the

support and maintenance of the absentee's wife and minor children, and to the discharge of such debts and claims for alimony as may be proved against said absentee.

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

Sec. 12. Return of absentee; procedure. The receiver shall be allowed such compensation and disbursements as the court orders, to be paid out of said property or proceeds. If within 7 years after the date of the disappearance and absconding as found and recorded by the court, such absentee appears, or an administrator, executor, assignee in insolvency or trustee in bankruptcy of said absentee is appointed, such receiver shall account for, deliver and pay over to him the remainder of said property. If said absentee does not appear and claim said property within said 7 years all his right, title and interest in said property, real or personal, or the proceeds thereof shall cease, and no action shall be brought by him on account thereof.

Sec. 13. Procedure at end of 7 years. If at the expiration of said 7 years said property has not been accounted for, delivered or paid over under the preceding section, the court shall order the distribution of the remainder to the persons to whom, and in the shares and proportions in which, it would have been distributed if said absentee had died intestate within the state on the day 7 years after the date of the disappearance or absconding as found and recorded by the court.

Sec. 14. Time limit on actions regulated. If such receiver is not appointed within 6 years after the date found by the court under section 5, the time limited for accounting for, or fixed for distributing, said property or its proceeds, or for barring actions relative thereto, shall be 1 year after the date of the appointment of the receiver instead of 7 years provided in the 2 preceding sections.