

MAINE STATE LEGISLATURE

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N I N E T Y - S E C O N D L E G I S L A T U R E

Legislative Document

No. 299

H. P. 650

House of Representatives, February 1, 1945.

Referred to the Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Ward of Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

AN ACT Providing for the Proof of Wills Where Subscribing Witnesses Are Unavailable, By Reason of Service in the Armed Forces of the United States.

Emergency preamble. Whereas, a state of war now exists between the United States and the Axis Allies; and

Whereas, many soldiers, sailors and merchant seamen did not have time to execute wills before civilian witnesses and were obliged to execute them before military witnesses; and

Whereas, in the event of death of the testator it is often impossible to have such wills proved and allowed; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of Article XXXI of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

R. S., c. 141, § 7-A, additional. Chapter 141 of the revised statutes is hereby amended by adding thereto a new section to be numbered 7-A, to read as follows:

‘Sec. 7-A. Proving wills when subscribing witnesses in armed forces. When it appears to the judge that a will offered for probate was executed before witnesses who at the time they subscribed their names thereto were serving in or present with the armed forces of the United States or as merchant seamen, and that such will cannot be proved as otherwise provided by law because one or more or all of the subscribing witnesses to the will, at the time the will is offered for probate, are serving in or present with the armed forces of the United States or as merchant seamen, or are dead or mentally or physically incapable of testifying or otherwise unavailable, the judge may decree the probate of such will upon the testimony in person or by deposition of at least 2 credible disinterested witnesses that the signature to the will is in the handwriting of the person whose will it purports to be, or upon other sufficient proof of such handwriting. The foregoing provision shall not preclude the judge, in his discretion, from requiring in addition, the testimony in person or by deposition of any available subscribing witness, or proof of such other pertinent facts and circumstances as the judge may deem necessary to decree the probate of such will. When such will is proved and allowed, it shall have the same force and effect as a will proved and allowed as otherwise provided by law.’

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.