

MAINE STATE LEGISLATURE

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CHAPTER 231

MISSING OR ABSENT PERSONS

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SUBCHAPTER I

PRESUMPTION OF DEATH; ADMINISTRATION

Sec.

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§ 2701. Estates of persons disappeared for 7 years; exception

If a person entitled to or having an interest in personal property within the jurisdiction of this State has disappeared from the place within this State where he was last known to be or resided, and his disappearance is followed by a continued absence for a period of not less than 7 years from the date of disappearance, during which period he is unheard from; and a petition is made to the probate court in the county in which said person last resided or in which he left said property of the value of at least \$20, which petition shall allege the disappearance, continued absence and presumption of death of said person and request the allowance of the will of said person, if he left one, or the appointment of an administrator, if he is alleged to have died intestate; and the said probate court, after notice and hearing thereon, shall issue letters testamentary or of administration upon his estate; then any payment due the estate of said person made to the executor or administrator thereof shall be valid, and the receipt or release given by said executor or administrator shall be a bar to any further or other action therefor. Except that persons on active duty with the Armed Forces of the United States classed as "missing in action" shall be presumed to be dead after continued absence of one year from the date such persons are so classed upon written finding of presumed death made by the Secretary of War, the

Secretary of the Navy, or other officer or employee of the United States authorized to make such finding pursuant to the Federal Missing Persons Act (56 Stat. 143, 1092, and P.L. 408, Ch. 371, 2nd Sess. 78th Cong.; 50 U.S.C.App.Supp. 1001-17), as now or hereafter amended, or upon a duly certified copy of said finding.

R.S.1954, c. 154, § 24.

§ 2702. Evidence of presumption of death after one year

A written finding of presumed death made by the Secretary of War, the Secretary of the Navy, or other officer or employee of the United States authorized to make such findings pursuant to the Federal Missing Persons Act, or a duly certified copy of such finding, shall be received in any court, office or other place in this State as evidence of the death of the person therein found to be dead, and the date, circumstances and place of his disappearance.

R.S.1954, c. 154, § 25.

§ 2703. Proof of life or death

An official written report or record, or duly certified copy thereof, that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy, or is dead, or is alive, made by any officer or employee of the United States authorized by the Federal Missing Persons Act or by any other law of the United States to make same, shall be received in any court, office or other place in this State as evidence that such person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy, or is dead, or is alive, as the case may be.

R.S.1954, c. 154, § 26.

§ 2704. Evidence of fact of execution of instrument

For the purposes of sections 2702 and 2703, any finding, report or record, or duly certified copy thereof, purporting to have been signed by such an officer or employee of the United States as is described in said sections, shall prima facie be deemed to have been signed and issued by such an officer or employee pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of his authority so to certify.

R.S.1954, c. 154, § 27.

SUBCHAPTER II

RECEIVERSHIPS

Sec.

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§ 2751. Estates of absentees

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 creditor, or such wife, or someone in her or such minor's behalf, may file a petition under oath in the probate court for the county where 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 disappearing 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 subchapter.

R.S.1954, c. 154, § 28.

§ 2752. Warrant

The court may thereupon issue a warrant, directed to the public administrator in the county where the property or some of it is situated, which may run throughout the State, commanding him to take possession of the property named in said schedule and make return of said warrant as soon as may be with his doings thereon with a schedule of the property so taken. The public administrator shall cause so much of the warrant as relates to land to be recorded in the registry of deeds for the county 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. Fees and the costs of publishing and serving the notice shall be paid by the petitioner. If a receiver is appointed, said fees shall be repaid by the receiver to the petitioner and allowed the receiver in his account.

R.S.1954, c. 154, § 29.

§ 2753. Notice

Upon the return of such warrant, the court may issue a notice reciting the substance of the petition, warrant and return, which shall be addressed to such absentee and to all persons who claim an interest in said property, and to all to 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 schedule should not be appointed and said property held and disposed of under this subchapter.

R.S.1954, c. 154, § 30.

§ 2754. —Publication

The return day of said notice shall be not less than 30 days 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 said county and a copy to be mailed to the last known address of such absentee. The court may order other and further notice to be given within or without the State.

R.S.1954, c. 154, § 31.

§ 2755. Hearing

The absentee or any person who claims an interest in any of the property may appear and show cause why the prayer of the

petitioner should not be granted. The court may, after hearing, dismiss the petition and order the property in possession of the public administrator to be returned to the person entitled thereto, or it may appoint the person who, under the law of the State, would be entitled to administer upon the estate of such absentee if he were deceased, or if no such person is known or such person declines to serve, then he may appoint the public administrator for said county as receiver of the property which is in the possession of the public administrator 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.

R.S.1954, c. 154, § 32.

§ 2756. Possession by receiver

After the approval of such bond, the court may order the public administrator to transfer and deliver to such receiver the possession of the property under the warrant, and the receiver shall file in the registry of probate a schedule of the property received by him.

R.S.1954, c. 154, § 33.

§ 2757. Collection of debts

Such receiver shall take possession of any additional property within the State which belongs to such absentee and 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 public administrator. If he takes any additional real estate, said receiver shall file a certificate describing said real estate with the register of deeds for the county where the real estate is located.

R.S.1954, c. 154, § 34.

§ 2758. Appointment

If such absentee has left no corporeal property within the State, but there are debts or obligations due or owing to him from persons within the State, a petition may be filed as provided in section 2751, 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 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 of said absentee. Said receiver shall give bond as provided in section 2755, and shall hold the proceeds of such debts and obligations and all property received by him and distribute the same as provided.

R.S.1954, c. 154, § 35.

§ 2759. Perishable goods

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 the 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, 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 subchapter or for reinvestment approved by the court.

R.S.1954, c. 154, § 36.

§ 2760. 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 dependent children, and to the discharge of such debts and claims for alimony as may be proved against said absentee.

R.S.1954, c. 154, § 37.

§ 2761. Arbitration of claims

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

R.S.1954, c. 154, § 38.

§ 2762. Compensation; cessation of duties

The receiver shall be allowed such compensation and disbursements as the court orders, to be paid out of said property or proceeds. If within 14 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 14 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.

R.S.1954, c. 154, § 39.

§ 2763. Termination of receivership

If at the expiration of said 14 years said property has not been accounted for, delivered or paid over under section 2762, 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 14 years after the date of the disappearance or absconding as found and recorded by the court, except that said receiver shall deduct from the share of each distributee and pay to the State Tax Assessor for the use of the State such amount as said distributee would have paid in an inheritance tax to the State if said distributee had received the property by inheritance from a deceased resident of this State.

R.S.1954, c. 154, § 40; 1957, c. 397, § 55.

§ 2764. Limitations

If such receiver is not appointed within 13 years after the date found by the court under section 2755, the time limited to accounting for, or fixed for distributing, said property or its proceeds, or for barring actions relative thereto, shall be one year after the date of the appointment of the receiver instead of the 14 years provided in sections 2762 and 2763.

R.S.1954, c. 154, § 41.