

MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

SENATE

NO. 156

In Senate, Feb. 13, 1917.

*Reported by Mr. Davies from Committee on Judiciary and
ordered printed under joint rules.*

W. E. LAWRY, Secretary.

Presented by Mr. Davies of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVENTEEN

AN ACT to amend Sections 4 and 5 of Chapter 78 of the
Revised Statutes of 1916, relating to the sale of real estate
subject to contingent remainders.

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

Section 4 of Chapter 78 is hereby amended by inserting,
2 after the word "estate" in the fifth line of said section, the
3 words 'which petition shall set forth the nature of the
4 petitioner's title to said real estate, the source from which
5 the title was derived, the names and addresses of all persons
6 known to be interested in said real estate, and such other

7 facts as may be necessary for a full understanding of the
8 matter,' so that said section, as so amended shall read as
9 follows:

'Sect. 4. Real Estate Subject to Contingent Remainders
2 May Be Sold or Mortgaged; Proceedings. When real estate
3 is subject to a contingent remainder, executory devise, or
4 power of appointment, the supreme judicial court, or the
5 probate court, for the county in which such real estate is
6 situated, may, upon the petition of any person who has an
7 estate in possession in such real estate, which petition shall
8 set forth the nature of the petitioner's title to said real estate,
9 the source from which the title was derived, the names and
10 addresses of all persons known to be interested in said real
11 estate, and such other facts as may be necessary for a full
12 understanding of the matter, and after notice and other pro-
13 ceedings as hereinafter required, appoint one or more trus-
14 tees, and authorize him or them to sell and convey such
15 estate or any part thereof in fee simple, if such sale and
16 conveyance appears to the court to be necessary or expedi-
17 ent; to mortgage the same, either with or without power of
18 sale, for such an amount, on such terms, and for such pur-
19 poses, as may seem to the court judicious or expedient; and
20 such conveyance or mortgage shall be valid and binding upon
21 all parties.'

Section 5 of said chapter is amended by adding, after the
2 word "therein," in the fourth line of said section, the words
3 'provided that if persons interested in said real estate do not

4 consent in writing to a sale thereof, personal notice of the
5 time and place of the hearing on said petition shall be given
6 to all persons known to be interested therein. Said personal
7 notice may be given in any manner provided by law, or by
8 the clerk of courts or the register of probate sending a copy
9 of said petition and order of court thereon by registered
10 mail, return receipt requested, in time to give each party at
11 least fourteen days' notice of said hearing. The written
12 statements of the clerk and register, with the return receipt,
13 shall be proof of said service.' So that said Section 5, as so
14 amended, shall read as follows:

'Sect. 5. Notice; Appointment of Next Friend of Minors,
2 Etc. Notice of any such petition shall be given in such
3 manner as the court may order, to all persons who are or
4 may become interested in the real estate to which the
5 petition relates, and to all persons whose issue, not in being,
6 may become interested therein; provided that if persons
7 interested in said real estate do not consent in writing to a
8 sale thereof, personal notice of the time and place of the
9 hearing on said petition shall be given to all persons known
10 to be interested therein. Said personal notice may be given
11 in any manner provided by law, or by the clerk of courts or
12 the register of probate sending a copy of said petition and
13 order of court thereon by registered mail, return receipt re-
14 quested, in time to give each party at least fourteen days'
15 notice of said hearing. The written statements of the clerk
16 and register, with the return receipt, shall be proof of said

17 service. The court shall in every case appoint a suitable per-
18 son to appear and act therein as the next friend of all minors,
19 persons not ascertained, and persons not in being, who are or
20 may become interested in such real estate; and the cost of
21 the appearance and services of such next friend, including
22 the compensation of his counsel, to be determined by the
23 court, shall be paid, as the court may order, either out of
24 the proceeds of the sale or mortgage or by the petitioner, in
25 which latter case execution therefor may issue in the name
26 of the next friend.'