

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 573

H. P. 398

House of Representatives, January 19, 1961

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

HARVEY R. PEASE, Clerk

Presented by Mr. Berman of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT to Provide for the Sale of Attached Personal Property.

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

Sec. 1. R. S., c. 112, § 32, amended. Section 32 of chapter 112 of the Revised Statutes is amended to read as follows :

'**Sec. 32. Perishable goods sold without consent.** When personal property liable to perish, be wasted, greatly reduced in value by keeping or be kept at great expense is attached, and the parties do not consent to a sale thereof, the same may be ~~examined and appraised~~ **ordered sold either** before or after entry of the action, ~~as provided in accordance with~~ sections 33 to 41.'

Sec. 2. R. S., c. 112, § 33, repealed and replaced. Section 33 of chapter 112 of the Revised Statutes is repealed and the following enacted in place thereof :

'**Sec. 33. Appraisal in certain cases.** Either party may, on motion to the court setting forth the reasons therefor, petition the court to order the expeditious sale of the attached property. After such notice as the court may order and hearing on the motion, the court may, in its discretion, order the attached property to be sold and the proceeds held as security for the claim involved. As a part of its order, the court may impose such restrictions and conditions as it deems necessary for the conduct of such sale, the protection of lienors, the furnishing of bonds for the protection of the interests of any party, and to protect the interest of the attaching creditor and debtor.'

Sec. 3. R. S., c. 112, §§ 34-38, repealed. Sections 34 to 38 of chapter 112 of the Revised Statutes are repealed.

Sec. 4. R. S., c. 112, § 39, amended. Section 39 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 39. Proceeds attached in hands of the officer. The proceeds of such property sold by ~~consent or after an appraisal order of court~~ may be further attached by the officer as property of the defendant while remaining in his hands; and held and disposed of as if the property itself had been attached; but after retaining enough to satisfy all attachments existing thereon at any time, nothing herein shall prevent his paying the surplus to the debtor.'

Sec. 5. R. S., c. 112, § 40, amended. Section 40 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 40. Right by priority in case of sale preserved. When goods which are sold ~~or appraised and delivered to the debtor by order of court~~ in the manner ~~before~~ provided have been attached by several creditors, any one of them may demand and receive satisfaction of his judgment, notwithstanding any prior attachments, if he is otherwise entitled to demand the money and a sufficient sum is left of the proceeds of the goods or of their appraised value to satisfy all prior attachments.'