

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SEVENTY-EIGHTH LEGISLATURE

SENATE

NO. 24

In Senate, Jan. 24, 1917.

Referred to Committee on Judiciary and five hundred copies ordered printed. Sent down for concurrence.

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 peti- 4 tioner's title to said real estate, the source from which the 5 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 es-
3 tate is subject to a contingent remainder, executory devise,
4 or power of appointment, the supreme judicial court, or
5 the probate court, for the county in which such real estate
6 is situated, may, upon the petition of any person who has
7 an estate in possession in such real estate, which petition
8 shall set forth the nature of the petitioner's title to said
9 real estate, the source from which the title was derived,
10 the names and addresses of all persons known to be inter-
11 ested in said real estate, and such other facts as may be
12 necessary for a full understanding of the matter, and after
13 notice and other proceedings as hereinafter required, ap-
14 point one or more trustees, and authorize him or them to
15 sell and convey such estate or any part thereof in fee sim-
16 ple, if such sale and conveyance appears to the court to be
17 necessary or expedient; to mortgage the same, either with
18 or without power of sale, for such an amount, on such
19 terms, and for such purposes, as may seem to the court
20 judicious or expedient; and such conveyance or mortgage
21 shall be valid and binding upon 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
4 not consent in writing to a sale thereof, personal notice of

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

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