

MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

SENATE

NO. 180

In Senate, March 2, 1923.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent down for concurrence.

L. ERNEST THORNTON, Secretary.

Presented by Senator Buzzell of Waldo.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-THREE

AN ACT Relating to Waiver of Provisions of Will.

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

Section thirteen of chapter eighty of the revised statutes
2 is hereby amended by inserting after the word "intended"
3 in the twelfth line thereof, the following words: 'Such elec-
4 tion may be made by an insane widow or insane widower,
5 by his or her guardian, or by a guardian ad litem appointed
6 for the purpose,' so that said section, as amended, shall read
7 as follows:

'Sect. 13. *Widow or widower may elect whether to ac-*
2 *cept provision in will or claim interest by descent. R. S. c.*
3 *77, p. 13. When a specific provision is made in a will, for*

4 the widow or widower of a testator or testatrix, who was
5 married before the first day of May, eighteen hundred and
6 ninety-five, and died since the first day of January, eighteen
7 hundred and ninety-seven, or who was married on or after
8 said first day of May, such legatee or devisee may within
9 six months after probate of said will and not afterwards,
10 except as hereinafter provided, make election, and file no-
11 tice thereof in the registry of probate, whether to accept
12 said provision or claim the right and interest by descent,
13 herein provided; but is not entitled to both, unless it appear
14 by the will that the testator or testatrix plainly so intended.
15 Such election may be made by an insane widow or insane
16 widower, by his or her guardian, or by a guardian ad litem
17 appointed for the purpose. If such election is not made
18 within six months after probate of a will, and the estate is
19 thereafter rendered insolvent, and commissioners are ap-
20 pointed by the judge of probate, such election may be
21 made at any time within six months after the appointment
22 of such commissioners. Such election shall not affect any
23 title to real estate theretofore acquired from the executor
24 or administrator with the will annexed, but the widow or
25 widower may recover from such executor or administrator,
26 if not paid within thirty days after demand therefor in
27 writing, one-third of any sums received from real estate
28 sold before such waiver was filed. Whenever the widow or
29 widower is advised that the legal construction of the pro-
30 visions of the will for her or him is doubtful or uncertain,

31 the time for making such election shall be extended to thirty
32 days after certificate is returned to the probate court in
33 the county where the probate proceedings are had, of the
34 final decision by the supreme judicial court upon a bill in
35 equity, commenced by said legatee or devisee within thirty
36 days after the probate of the will, to obtain the decision
37 of the court as to his or her rights under it, but in no case
38 shall the time for election be less than six months after
39 probate. The clerk of courts for the county in which the
40 proceedings in equity are commenced, within three days
41 after receipt of the decision therein, shall send notice of
42 the same to the widow or widower, or her or his solicitor
43 of record, and transmit a certified copy of the decree to the
44 proper probate court, where it shall be recorded, with the
45 time of its reception.'