

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

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PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

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BANGOR:  
WHEELER & LYNDE.

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1857.

in actual service, or mariner at sea, may dispose of his personal estate and wages without regard to the provisions of this chapter.

SEC. 19. No testimony can be received to prove any testamentary words as a nuncupative will, after the lapse of six months from the time they were spoken, unless the words or the substance of them were reduced to writing within six days after they were spoken.

SEC. 20. No nuncupative will can be effectual to dispose of property exceeding in value one hundred dollars, unless proved by the oath of three witnesses, who were present at the making of it, and were requested by the testator to bear witness that such was his will.

CHAP. 74.

R. S., c. 92,  
§ 9, 10.

Testimony to  
prove not re-  
ceived after  
six months;  
exception.  
R. S., c. 92,  
§ 11.

Not effectual  
to dispose of  
property ex-  
ceeding \$100,  
unless, &c.  
2 Greenl. 298.  
R. S., c. 92, § 9.

## CHAPTER 75.

### TITLE BY DESCENT.

#### DESCENT OF REAL ESTATE.

- SEC. 1. Rules of descent established.
2. Degrees of kindred computed according to civil law. Half blood inherits.
  3. Heirship of an illegitimate child.
  4. Descent of estate of an illegitimate.
  5. Advancements, how established; considered part of the estate.
  6. Advancements, how to operate on distribution; not to be refunded.
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#### DESCENT OF PERSONAL ESTATE.

8. Personal estate, distributed as real estate is; exceptions.
9. Widow's share of it.
10. Disposition of money received for insurance on life.
11. When an heir is indebted to the estate, a lien is created; how enforced.

#### DESCENT OF REAL ESTATE.

SEC. 1. The real estate of a person deceased intestate, being subject to the payment of debts, descends according to the following rules:

*First.*—In equal shares to his children, and to the lawful issue of a deceased child by right of representation. If no child living at the time of his death, to all his lineal descendants; equally, if all are of the same degree of kindred; if not, according to the right of representation.

*Second.*—If no such issue, it descends to his father.

*Third.*—If no such issue or father, it descends in equal shares to his mother, brothers, and sisters, and when a brother or sister has deceased, to his or her children or grand children by right of representation.

*Fourth.*—If no such issue, father, brother, or sister, it descends to his mother to the exclusion of the issue of deceased brothers and sisters.

*Fifth.*—If no such issue, father, mother, brother, or sister, it descends to his next of kin in equal degree; when they claim

Rules of de-  
scend.  
R. S., c. 93, § 1.  
1852, c. 295,  
§ 1, 2.

To children  
and lineal de-  
scendants.

Father.

Mother, broth-  
ers and sisters.  
14 Maine, 309.

Mother.

Next of kin.

## CHAP. 75.

Share of one dying under age without marriage.

## Escheat.

Degrees of kindred computed, how.  
32 Maine, 312, note.  
R. S., c. 93, § 2.  
Heirship of illegitimate child.  
37 Maine, 333.  
R. S., c. 93, § 3.  
1852, c. 266.

Descent of estate of an illegitimate.  
R. S., c. 93, § 4.  
1852, c. 260, § 1.

Advancements, how established.  
R. S., c. 93, § 8, 9.

How it operates on a distribution; not to be refunded.  
R. S., c. 93, § 10, 11.

When one receiving an advancement dies, proceedings.  
R. S., c. 93, § 12, 13.

through different ancestors, to those claiming through a nearer, in preference to those claiming through an ancestor more remote.

*Sixth.* — When he leaves a child or children, and the issue of one or more deceased children, and one of those surviving children dies without having been married and under age, the share of his father's estate that descended to him, descends in equal shares to the other children of his father, and to the children and grand children of those deceased by right of representation; in equal shares, if they are all of the same degree of kindred, otherwise according to the right of representation.

*Seventh.* — If he leaves no kindred, it escheats to the state.

SEC. 2. The degrees of kindred are computed according to the rules of the civil law. Kindred of the half blood inherit equally with those of the whole blood in the same degree.

SEC. 3. An illegitimate child is an heir of his mother and of a person, who in a writing signed in the presence of and attested by a competent witness, acknowledges himself to be his father, and inherits as if born in lawful wedlock. But he does not inherit as representing his father or mother, any part of the estate of their kindred, either lineal or collateral, unless, before his death, his parents intermarry and have other children, or his father acknowledges him as aforesaid, or adopts him into his family, and then he is deemed legitimate, and, as such, inherits from others, and they from him.

SEC. 4. If an illegitimate child dies intestate without lawful issue, his estate descends to his mother, and if she has deceased, to her heirs at law, unless such child leaves a husband or widow, who then inherits an equal share with the mother or with her children.

SEC. 5. Gifts and grants of real or personal estate to a child or grand child are deemed an advancement, when so expressed therein, or charged as such by the intestate, or acknowledged in writing to be such. For purposes of descent and distribution, they are to be regarded as part of the estate of the intestate, and as taken towards a share of it.

SEC. 6. When the value of an advancement is determined by the intestate in his gift or charge, or is acknowledged in writing, it is to be allowed in the distribution, if not, the value is to be estimated at the time when given. When it exceeds his share, he is excluded from any further portion, when less, he is to receive sufficient to make it an equal share. He does not refund any part of an advancement.

SEC. 7. When an advancement is made in real, it is to be regarded as part of the real, and when in personal as part of the personal, estate. If it exceeds his share of the real or personal, he receives so much less of the other, as will make his whole share equal. If such child or grand child dies before the intestate, leaving issue, the advancement made to him is to be regarded as made to such issue, and distribution is to be made accordingly.

## DESCENT OF PERSONAL ESTATE.

## CHAP. 75.

SEC. 8. The personal estate of an intestate, except that portion assigned to his widow by law and by the judge of probate, is to be applied first to the payment of his debts, funeral charges, and charges of settlement, the residue is to be distributed or escheat by the rules provided for the distribution of real estate, subject to the following provisions.

Personal estate, how distributed. 22 Maine, 549. R. S., c. 93, § 15, 20.

SEC. 9. If he leaves a widow and issue, the widow takes one-third, if no issue one-half, and if no kindred the whole; and the widower shall have the same share in his wife's estate.

Widow's share. R. S., c. 93, § 17, 18, 19. 1857, c. 34.

SEC. 10. A sum of money received for insurance on his life, deducting the premium paid therefor within three years with interest, does not constitute a part of his estate for payment of debts, or purposes specified in the first section of chapter sixty-six, when the intestate leaves a widow or issue, but descends one-third to his widow, and the remainder to his issue; if no issue, the whole to the widow, and if no widow, the whole to the issue. It may be disposed of by will, though the estate is insolvent.

Disposition of money received for insurance on life. 1844, c. 114, § 1, 2, 3.

SEC. 11. When an estate is solvent, and a person, to whom a share of it descends, is indebted to the intestate at the time of his decease, that debt creates a lien on his share, having priority to any attachment of it; and such lien may be enforced by suit and attachment of the share within two years after administration granted, and by levy within thirty days after judgment. In such action, or in one brought by the heir, all claims between the intestate and heir may be set off and adjusted, and the balance due be established.

When heir is indebted to estate a lien on his share is created; how enforced. R. S., c. 93, § 21, 22.

## CHAPTER 76.

## TITLE TO REAL ESTATE BY LEVY OF EXECUTION.

## LEVY BY APPRAISEMENT.

- SEC. 1. Levy how made by appraisement; appointment of appraisers.
2. Appraisers sworn; form of oath, certificate of it; view of land.
3. They make return; contents of it.
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8. Levy on rents and profits, when and how made.
9. Levy on estate when part cannot be taken without damage to whole; how made.
10. Levy on estate for life, how made.
11. Levy on estate under lease; disposition of rent.
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15. Execution to be returned, and recorded in registry within three months.