

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY LORING, SHORT & HARMON
AND
WILLIAM M. MARKS, PRINTER.
1884.

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ERRATA:

**The following two leaves are
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

ERRORS.

ERROR IN THE TEXT OF THE REVISED STATUTES.

Page 63, § 3, line one.—Erase the last word “may.”

ERROR IN THE TEXT OF THE REPEALING ACT.

Page 999.—Transfer “Chapter 48, Section 6, of an act to facilitate the prompt administration of justice by establishing a superior court in Kennebec County,” from the year 1879 to 1878.

ERROR IN THE COMMISSIONER'S NOTES.

Pages 177, 178.—Erase the last two lines of page 177, and the first three lines of page 178.

ERRORS IN THE MARGINAL REFERENCES.

- Page 59, § 6, ¶ xx.—Erase “*R. S.*, c. 1, ¶ xx”, and supply, at the bottom of the page, “*R. S.*, c. 1, § 4”
- “ 66, § 24.—Erase “*Resolve of 1837*, c. 52.”
- “ 69, § 44.—Supply “*Resolve of 1840*, c. 107.”
- “ 72, § 68.—Erase “*See c. 6*, §§ 40-67.”
- “ “ § 70.—Erase “*R. S.*, c. 2, § 66.”
- “ 79, § 12, (note b).—“*See c. 18*, § 73” should read “*See c. 18*, § 75.”
“*See c. 30*, § 15” should read “*See c. 30*, § 16.”
- “ “ § 14.—Supply “*See c. 18*, § 75.”
- “ 83, § 40.—“*R. S.*, c. 3, § 34” should read “*R. S.*, c. 3, § 33.”
- “ 84, § 46.—“*See c. 18*, § 67” should read “*See c. 18*, § 59.”
- “ 86, § 59, ¶ i, (note b).—“*See c. 17*, §§ 25-29” should read “*See c. 17*, §§ 27, 28.”
- “ “ “ ¶ vi, (note e).—“*See c. 18*, § 15” should read “*See c. 18*, § 17.”
- “ 92, note.—“*c. 18*, §§ 39, 103” should read “*c. 18*, §§ 39, 97.”
- “ 97, § 16.—Erase “*R. S.*, c. 4, § 16.”
- “ 108, § 86.—“*Art. ii*, § 2” should read “*Art. ii*, § 1, ¶ 2.”
- “ 117, § 28.—Erase the first reference to “1878, c. 31, § 1.” Also erase “*R. S.*, c. 5, § 26.”
- “ 176, § 27.—“*Resolve of 1883*, c. 20” should read “*Resolve of 1883*, c. 86.”
- “ 183, § 5.—“*See § 93*, ¶ 6” should read “*See § 93*, ¶ v.”
- “ 202, § 102.—“1883, c. 229” should read “*See c. 115*, § 1.”
- “ 209, § 1.—Supply “1880, c. 215.”
- “ 210, § 7.—Supply “1880, c. 215.”
- “ 249, § 44.—“1875, c. 25, § 6” should read “1875, c. 25, § 6.”
- “ 270, § 16.—Supply “1880, c. 215.”
- “ 330, § 26.—“*See c. 40*, § 77” should read “*See c. 40*, § 74.”
- “ “ § 28.—“*See c. 40*, § 38” should read “*See c. 40*, §§ 33, 40.”
- “ 374, § 23.—“*See § 17*” should read “1880, c. 234, § 1.”
- “ 384, § 74.—Add “1883, c. 138, § 3.”
“1883, c. 144, § 4.”
- “ 506, § 1.—Supply “*See 1880*, c. 215.”
- “ 642, § 80, bottom of the page.—Supply “1878, c. 48, § 6.”
- “ 709, § 105.—“*See c. 134*, § 13” should read “*See c. 134*, § 19.”
- “ 773, § 42.—Supply “1883, c. 198, § 2.”
- “ 804, § 35.—“*See c. 134*, § 26” should read “*c. 134*, § 26.”
- “ 861, § 1.—“*R. S.*, c. 2, § 20,” } should read “1883, c. 221.”
“*R. S.*, c. 115, § 1.” }
- “ 862, § 4.—“*See c. 63*, §§ 32 to 39” should read “*See c. 63*, § 35.”

ERRORS IN CITATIONS OF CASES.

- Page 10, § 8, ¶ iii, (note c).—"14 *Pet.*, 504" should read "14 *Pet.*, 540."
 " 16, § 1, (note b).—"10 *Me.*, 483" should read "10 *Me.*, 283."
 " 78, § 5, (note a).—"13 *Me.*, 472, 489" should read "13 *Me.*, 472."
 " " § 7, (note b).—"12 *Me.*, 589" should read "12 *Me.*, 489."
 " 147, § 97.—"58 *Me.*, 528" should read "58 *Me.*, 532."
 " 166, § 1.—"64 *Me.*, 549" should read "64 *Me.*, 599."
 " 200, § 93, ¶ iv.—Erase "20 *Me.*, 545."
 " 211, § 19.—"3 *Me.*, 347" should read "3 *Me.*, 249."
 " 241, § 5, (note b).—"68 *Me.*, 28" should read "63 *Me.*, 28."
 " 257, § 80, (note a), Construction of ways.—"26 *Me.*, 340" should read "26 *Me.*, 240."
 " 397, § 1, (note a).—Erase "66 *Me.*, 526."
 " 521, § 2, (note a).—Erase "60 *Me.*, 377."
 " " § 9.—Erase "60 *Me.*, 533."
 " 563, § 10.—"31 *Me.*, 286" should read "31 *Me.*, 254."
 " 597, § 23.—"4 *Me.*, 19" should read "4 *Me.*, 8."
 " 705, § 78.—"43 *Me.*, 438" should read "48 *Me.*, 438."
 " 728, § 12.—Erase "68 *Me.*, 30."
 " 750, § 5.—Erase "20 *Me.*, 325."
 " 765, § 1, (note a).—Erase "73 *Me.*, 228."
 " 814, § 19, (note c).—Erase "71 *Me.*, 543."
 " 817, § 8, (note b).—"27 *Me.*, 363" should read "27 *Me.*, 362."
 " 885, § 1.—Erase "62 *Me.*, 285."
 " 886, § 8.—"36 *Me.*, 225" should read "36 *Me.*, 227."
 " 933, § 4.—"34 *Me.*, 478" should read "39 *Me.*, 478."

OMISSION IN REFERENCE INDEX TABLE, PART I.

Page 1060.—Supply "1878, c. 48, § 6," with a reference to "R. S., c. 77, § 80."

CHAP. 74.

Must be proved within six months; exception. R.S., c. 74, § 19. See c. 64, § 16. Cannot dispose of property over \$100, unless three witnesses were present. R.S., c. 74, § 20. 2 Me., 299. See c. 64, § 16.

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 when 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 is 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.

CHAPTER 75.**TITLE BY DESCENT.****DESCENT OF REAL ESTATE.**

- SEC. 1.** Rules of descent established.
2. Degrees of kindred are according to civil law. Half blood inherits.
3. Heirship of an illegitimate child.
4. Descent of estate of an illegitimate child.
5. Advancements, how established; considered part of the estate.
6. Advancements, how to operate on distribution; not to be refunded.
7. Advancements, when one receiving dies; proceedings.

DESCENT OF PERSONAL ESTATE.

- SEC. 8.** Personal estate to be distributed as real estate is; exceptions.
9. Widow's or widower's share of it.
10. Disposal of money received for insurance on life.
11. When an heir owes 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:

I.—In equal shares to his children, and to the lawful issue of a deceased child by right of representation. If no child is 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.

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

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

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

V.—If no such issue, father, mother, brother, or sister, it descends to his next of kin in equal degree; when they claim through different ancestors, to those claiming through a nearer ancestor, in preference to those claiming through an ancestor more remote.

VI.—When a minor dies unmarried, leaving property inherited from either of his parents, it descends to the other children of the same parent,

Rules of descent. R.S., c. 75, § 1. 58 Me., 259. 61 Me., 472. To children and lineal descendants. 14 Me., 310.

Father.

Mother, brothers and sisters. 14 Me., 310. 57 Me., 352. Mother. 57 Me., 351.

Next of kin. 53 Me., 495. 67 Me., 583.

Unmarried minor. 60 Me., 162.

and the issue of those deceased; in equal shares, if all are of the same degree of kindred; otherwise, according to the right of representation.

VII.—If the intestate leaves no kindred, it descends to the surviving husband or wife, if any; otherwise, 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 born after March twenty-four, eighteen hundred and sixty-four, is the heir of parents who intermarry; and such child, born at any time, is the heir of his mother, and of any person who acknowledges himself to be his father in a writing signed in the presence of and attested by a competent witness; and if his parents intermarry and have other children before his death, or his father so acknowledges him, or adopts him into his family, he shall inherit from his lineal and collateral kindred, and they from him, as if legitimate; but not otherwise.

SEC. 4. If an illegitimate child dies intestate without lawful issue, his estate descends to his mother, and if she has died, 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 grandchild, 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 shall 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 shall be allowed in the distribution; if not, the value shall be estimated at the time when it is given. When it exceeds his share, he is excluded from any further portion; when less, he shall receive sufficient to make it an equal share. He shall not refund any part of an advancement.

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

DESCENT OF PERSONAL ESTATE.

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

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 has the same share in his wife's estate. (a)

(a) 50 Me., 237; 63 Me., 376, 381.

CHAP. 75.

SEC. 1.

If no kindred, to husband or wife; else, to State.

Degrees of kindred.
R.S., c. 75, § 2.
32 Me., 311,
and 312, note.
Heirship of an illegitimate child.
R.S., c. 75, § 3.
37 Me., 336.
38 Me., 160.
55 Me., 472.

Descent of illegitimate child's estate.
R.S., c. 75, § 4.

Advancements, how established.
R.S., c. 75, § 5.
51 Me., 379.
59 Me., 216.

How an advancement operates on a distribution.
R.S., c. 75, § 6.

—not to be refunded.

Proceedings, when one having received an advancement, dies.
R.S., c. 75, § 7.

Personal estate, how distributed.
R.S., c. 75, § 8.
See R.S., 1841,
c. 93, § 13.
61 Me., 472.
67 Me., 583.

Widow's, and widower's shares.
R.S., c. 75, § 9.

CHAP. 75. **SEC. 10.** 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 for purposes specified in section one 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, although the estate is insolvent.

Life insurance, disposal of.
R.S., c. 75, § 10.
See c. 49, § 94;
c. 64, § 48, ¶ 4.
58 Me., 434.
61 Me., 471.
66 Me., 518.
73 Me., 548.

When heir is indebted to the estate, a lien on his share is created; how enforced.
R.S., c. 75, § 11.
68 Me., 60.

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 death, such 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 is 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 may be established.

CHAPTER 76.

TITLE TO REAL ESTATE BY LEVY OF EXECUTION.

LEVY BY APPRAISEMENT.

- SEC. 1.** What real estate may be levied on. Levy, how made by appraisement; appointment of appraisers.
2. Appraisers shall be sworn; form of oath, certificate of it; view of land.
 3. Value and description of estate shall be made in return.
 4. Parcels may be appraised together; return is good, if signed by two.
 5. Officer's return, what it must state; when to be completed.
 6. Estates tail, shall be taken, appraised and held as estates in fee.
 7. Estate held in joint tenancy or in common, may be taken on execution.
 8. All debtor's interest passes by levy, unless it is greater than is stated in appraisers' return.
 9. Levy on rents and profits, when and how to be made.
 10. Levy on premises, when part cannot be taken without damage to whole.
 11. Levy on estate for life, how made.
 12. Levy on estate under lease; disposal of rent.
 13. Seizin and possession, how delivered. When debtor shall not be ousted.
 14. Levy on land fraudulently conveyed by debtor, or of which debtor has been disseized.
 15. When debt is assigned, estate shall be taken and held in trust for assignee.
 16. Execution must be returned, and recorded within three months.
 17. Without record, levy is not valid against purchaser without notice.
 18. When levy may be waived, or held void.
 19. When title proves bad after record, proceedings for an alias execution.
 20. Assignee of judgment may sue out writ of scire facias, if estate does not pass by levy. Levy may be set aside. Another execution may issue.
 21. Assignee may bring action of debt in his own name.
 22. Levy commences, when appraisers are sworn.
 23. Levy, if not over one per cent. too much, is valid; remedy of debtor.
 24. Levies, sustained by two preceding sections, may be redeemed.