

MAINE STATE LEGISLATURE

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SEVENTY-FOURTH LEGISLATURE

HOUSE.

No. 723

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND NINE.

AN ACT to amend section 13 of chapter 77 making certain the rights of a widow or widower in case of waiver of the provision of the will of the deceased husband or wife.

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

Section 1. Section 13 of chapter 77 of the Revised Statutes is hereby amended by inserting after the words "receive" in the thirty-sixth line the words, 'the same share of the real estate and'; also by inserting after the word "personal" in the thirty-seventh line the words, 'real and'; also by inserting after the word, "receive" in the forty-second line, the words, 'the same share of the real estate and'; and by inserting before the word, "personal," in the forty-sixth

9 line the words, 'real and,' so that said section as amended
10 shall read as follows:

'Section 13. When a specific provision is made in a will,
12 for the widow or widower of a testator or testatrix, who was
13 married before May one, eighteen hundred and ninety-five,
14 and died since January one, eighteen hundred and ninety-
15 seven, or who was married on or after said May one, such
16 legatee or devisee may within six months after probate of
17 said will and not afterwards, except as hereinafter provided,
18 make election, and file notice thereof in the probate court,
19 whether to accept said provision or claim the right and inter-
20 est by descent, herein provided; but is not entitled to both,
21 unless it appear by the will that the testator or testatrix
22 plainly so intended. If such election is not made within six
23 months after probate of a will, and the estate is thereafter
24 rendered insolvent, and commissioners are appointed by the
25 judge of probate, such election may be made at any time
26 within six months after the appointment of such commission-
27 ers. Such election shall not affect any title to real estate
28 theretofore acquired from the executor or administrator
29 with the will annexed, but the widow or widower may re-
30 cover from such executor or administrator, if not paid with-
31 in thirty days after demand therefor in writing, one third of
32 any sums received from real estate sold before such waiver
33 was filed. Whenever the widow or widower is advised that
34 the legal construction of the provisions of the will for her or

35 him is doubtful or uncertain, the time for making such elec-
36 tion shall be extended to thirty days after certificate is re-
37 turned to the probate court in the county where the probate
38 proceedings are had, of the final decision by the supreme
39 judicial court upon a bill in equity, commenced by said
40 legatee or devisee within thirty days after the probate of the
41 will, to obtain the decision of the court as to his or her rights
42 under it, but in no case shall the time for election be less than
43 six months after probate. The clerk of courts for the
44 county in which the proceedings in equity are commenced,
45 within three days after receipt of the decision therein, shall
46 send notice of the same to the widow or widower, or her or
47 his solicitor of record, and transmit a certified copy of the
48 decree to the proper probate court, where it shall be recorded
49 with the time of its reception. When a provision is made in
50 a will for the widow of a testator who died after April
51 twenty-sixth, eighteen hundred and ninety-seven, or for the
52 widower of a testatrix, who died after June one, nineteen
53 hundred and three, and such provision is waived as aforesaid,
54 such widow or widower shall have and receive the same share
55 of the real estate and the same distributive share of the real
56 and personal estate of such testator or testatrix as is pro-
57 vided by law in intestate estates. When no provision is
58 made for his widow in the will of a testator who died after
59 April twenty-sixth, eighteen hundred and ninety-seven, or
60 for her widower in the will of a testatrix, who died after

61 June one, nineteen hundred and three, such widow or widow-
62 er shall likewise have and receive the same share in the real
63 estate and the same distributive share of the personal estate
64 of such testator or testatrix as is provided by law in intestate
65 estates, provided such widow or widower shall within six
66 months after the probate of such will, file in the probate
67 court written notice that she or he claims such share
68 of the real and personal estate of such testator or
69 testatrix. Any notice filed under the provision of this
70 section shall be recorded by the register of probate in the
71 record books of the probate court where such notice is filed,
72 but a failure to record such notice shall not in any way affect
73 the rights of any widow or widower.'

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,

Augusta, March 19, 1909.

Reported by Mr. MORSE from Committee on Legal Affairs
and ordered printed under joint rules.

E. M. THOMPSON, *Clerk.*