

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

House Document

No. 722

S. P. 714 House of Representatives, March 21, 1929.

Referred to Committee on Revision of Statutes in concurrence and 500 copies ordered printed.

CLYDE R. CHAPMAN, Clerk.

Presented by Senator Weatherbee of Penobscot.

STATE OF MAINE

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

AN ACT Relative to Share of a Child or His Issue Having
No Devise Under a Will.

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

Section nine of chapter seventy-nine of the revised statutes is hereby amended by adding at the end thereof the following sentences:

‘Upon the hearing on the petition for allowance of such will or thereafter prior to allowance of the final account, upon special petition alleging the facts and after such reasonable notice as the judge of probate may order, evidence may be offered in the probate court and the judge of probate may determine as a fact that such omission was inten-

7 tional or was not occasioned by mistake, or that such child
8 or issue had a due proportion of the estate during the life
9 of the testator, from which decree an appeal will be to
10 the supreme court of probate. Upon final judgment being
11 entered such child or issue shall be thereupon barred from
12 claiming his said share in the testator's estate, a copy of
13 such decree shall be filed in the registry of deeds in each
14 county where real estate affected by it is located,' so that
15 said section as amended shall read as follows:

'Sect. 9. *A child or his issue, having no devise, to take
2 as an heir in certain cases: proceedings in probate court.*

3 A child, or the issue of a deceased child not having any
4 devise in the will, takes the share of the testator's estate,
5 which he would have taken if no will had been made, unless
6 it appears that such omission was intentional, or was not
7 occasioned by mistake, or that such child or issue had a
8 due proportion of the estate during the life of the testator.
9 Upon the hearing on the petition for allowance of such
10 will, or thereafter prior to allowance of the final account,
11 upon special petition alleging the facts and after such rea-
12 sonable notice as the judge of probate may order, evidence
13 may be offered in the probate court and the judge of pro-
14 bate may determine as a fact that such omission was in-
15 tentional or was not occasioned by mistake, or that such
16 child or issue had a due proportion of the estate during
17 the life of the testator, from which decree an appeal will
18 be to the supreme court of probate. Upon final judgment

19 being entered such child or issue shall be thereupon barred,
20 from claiming his said share in the testator's estate, a copy
21 of such decree shall be filed in the registry of deeds in each
22 county where real estate affected by it is located.'