

MAINE STATE LEGISLATURE

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N I N E T Y - F O U R T H L E G I S L A T U R E

Legislative Document

No. 1621

H. P. 2120

House of Representatives, May 5, 1949

Reported by Mr. Payson from the Committee on Judiciary and printed under Joint Rule No. 10.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT Relating to Rules of Descent.

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

Sec. 1. R. S., c. 156, § 1, sub-§ I, amended. Subsection I of section 1 of chapter 156 of the revised statutes is hereby amended to read as follows :

'I. If he leaves a widow and issue, $\frac{1}{3}$ to the widow. If the deceased leaves no issue, $\frac{1}{2}$ to the widow.

Provided, however, that if the deceased leaves no issue and if it appears on the determination by the probate court that the whole real and personal estate does not exceed \$5,000 in value, and that intestate and the surviving widow or widower were living together at the time of his or her decease, the surviving widow or widower shall take the whole thereof; otherwise such survivor shall take \$5,000 and $\frac{1}{2}$ of the remaining personal and $\frac{1}{2}$ of the remaining real property.

If the personal property is insufficient to pay said \$5,000, the deficiency shall, upon the petition of any party in interest, be paid from the sale or mortgage, in the manner provided for the payment of debts or legacies, of any interest of the deceased in real property which he could have conveyed at the time of his death; and the surviving husband or wife shall

be permitted, subject to the approval of the court, to purchase at any such sale, notwithstanding the fact that he or she is the administrator of the estate of the deceased person. A further sale or mortgage of any real estate of the deceased may later be made to provide for any deficiency still remaining. Whenever it shall appear, upon petition to the probate court of any party in interest, and after such notice as the court shall order, and after a hearing thereon, that the whole amount of the estate of the deceased, as found by the inventory and upon such other evidence as the court shall deem necessary, does not exceed the sum of \$5,000 over and above the amount necessary to pay the debts of the deceased, funeral charges and charges of administration, the court shall itself by decree determine the value of said estate, which decree shall be binding upon all parties. If additional property is later discovered, the right or title to the estate covered by such decree shall not be affected thereby, but the court may make such further orders and decrees as are necessary to effect the distribution herein provided for.

If no kindred, the whole to the widow; and to the widower shall descend the same shares in his wife's real estate. There shall likewise descend to the widow or widower the same share in all such real estate of which the deceased was seized during coverture, and which has not been barred or released as herein provided. In any event, $\frac{1}{3}$ shall descend to the widow or widower free from payment of debts, except as provided in section 22 of chapter 150.'

Sec. 2. Effective date. This act shall apply only in case of estates of persons dying on or after the effective date of this act.