

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE

1895.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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1895.

PUBLIC LAWS
OF THE
STATE OF MAINE.

1895.

without a license, forfeits not exceeding fifty dollars for every day that it is so kept. The keeper of an intelligence office shall not retain any sum of money received from a person seeking employment through the agency of such intelligence office, unless employment of the kind sought for is actually furnished. The keeper of a licensed intelligence office shall cause two copies of this act, printed in type of sufficient size to be legible and easily read, to be conspicuously posted in each room used or occupied for the purposes of such intelligence office. Whoever violates the provisions of this act shall have the license revoked, and shall be punished by fine not exceeding twenty dollars for each offense.' —penalty.

Approved March 26, 1895.

Chapter 157.

An Act to amend section one of chapter seventy-five of the Revised Statutes, relating to Title by Descent, and to establish the rights of Widows and Widowers in the real estate of deceased Husbands and Wives.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECT. 1. Section one of chapter seventy-five of the revised statutes is hereby amended, so as to read as follows :

Sec. 1, ch. 75,
R. S.,
amended.

SECT. 1. The real estate of a person deceased intestate, being subject to the payment of debts, including a wood lot or other land used with the farm or dwelling-house although not cleared, but excepting wild lands of which he dies seized, and wild lands conveyed by him, though afterwards cleared, descends according to the following rules :

Rules of
descent.

I. If he leaves a widow and issue, one-third to the widow. If no issue, one-half to the widow. And 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.

To widow.

—widower.

II. The remainder of which he dies seized, and if no widower or widow, the whole, together with all wild lands, shall descend in equal shares to his children, and to the lawful issue of a deceased child by right of representation. If

To children,
and lineal
descendants.

CHAP. 157

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.

Father and
mother.

III. If no such issue, it descends to his father and mother in equal shares.

—mother.

IV. If no such issue or father, it descends one-half to his mother. If no such issue or mother, it descends one-half to

—father.

his father. In either case, the remainder descends in equal shares to his brothers and sisters, and when a brother or sister has died, to his or her children or grandchildren by right of representation.

—brothers and
sisters.

—mother.

V. If no such issue, father, brother or sister, it descends to his mother. If no such issue, mother, brother or sister, it descends to his father. In either case, to the exclusion of the issue of deceased brothers and sisters.

—father.

Next of kin.

VI. 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.

Unmarried
minor.

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

To the state.

VIII. If the intestate leaves no widower, widow or kindred, it escheats to the state.'

Right of
dower.
abolished.

SECT. 2. Except as hereinafter provided, the right of widows to dower in the real estate of their deceased husbands, and the right of widowers as tenant by the courtesy in the real estate of their deceased wives are hereby abolished.

Sec. 14,
repealed.

Section fourteen of chapter one hundred and three of the revised statutes is hereby repealed. But the passage of this

— shall not
affect pending
rights.

act, and the repeal of such laws as may be repealed thereby, shall not be held to affect, modify, enlarge or limit the rights and interests which any widower or widow now has in the estate of a wife or husband already deceased, nor any of the remedies by which the same may be enforced. Nor shall a widower have any interest in the real estate of his wife heretofore conveyed by her during coverture.

SECT. 3. A husband or wife of any age, may bar the right and interest by descent, provided for in this act in an estate conveyed by the other, by joining in the same, or a subsequent deed, or with the guardian of the other; or by sole deed; but shall not be deprived of such right and interest by levy or sale of the real estate on execution; but may, after the right of redemption has expired, release such right and interest by sole deed.

Husband or wife may bar the right, by deed, etc.

—shall not be deprived of right by levy and sale.

SECT. 4. Such right and interest by descent may be barred by jointure, pecuniary provisions, or an antenuptial settlement, in the same manner, and to the same extent, and with the same effect that dower may be thus barred in accordance with the provisions of sections seven, eight and nine of chapter one hundred and three of the revised statutes.

Right and interest may be barred, by jointure, etc.

SECT. 5. When a specific provision is made in a will, for the widow or widower of a testator or testatrix, such legatee or devisee shall within six months after probate thereof or within such further time, and under such circumstances, as is allowed by chapter eighty-eight of the public laws of eighteen hundred and eighty-seven, and not afterwards, make election and file notice thereof in probate court whether to accept it or claim the right and interest by descent, herein provided; but is not entitled to both, unless it appear by the will that the testator or testatrix plainly so intended.

Widow or widower, legatee of a will, may elect, whether to accept legacy, or claim right and interest by descent.

SECT. 6. All releases of dower in any manner heretofore or hereafter made, in estates conveyed or mortgaged by husbands, shall be deemed to be releases of such right and interest by descent, and shall have the same effect.

Release of dower, shall be deemed to be release of right and interest by descent.

SECT. 7. If the wife has heretofore released her right of dower in a mortgage made by her husband, or if her husband is seized of land mortgaged by another person, or by himself before their marriage, she shall be entitled to her right and interest by descent, as herein provided, in the mortgaged premises, as against every person except the mortgagee and those claiming under him. And if the heirs of the husband, or other person claiming under him, redeem the mortgage, she shall repay such proportion of the money paid by him as her interest in the mortgaged premises bears to the whole value; else she shall be entitled to her right and interest by descent only according to the value of the estate, after deducting the money paid for its redemption.

Wife entitled to right, in property mortgaged before marriage.

CHAP. 157

Wife who has not released her right of dower in land conveyed or mortgaged, shall be entitled to same as against grantee or mortgagee.

SECT. 8. If the wife of the grantor or mortgagor of lands heretofore conveyed or mortgaged has not released or barred her right of dower in the same, she shall be entitled, as against the grantee or mortgagee and those claiming under him, to her right of dower only, as now existing. The wife of one, heretofore decreed to be insolvent under the provisions of chapter seventy of the revised statutes, shall be entitled, as against the assignee, and those claiming under him, to her right of dower only, as aforesaid.

Act shall not affect any jointure or antenuptial settlement.

SECT. 9. The passage of this act shall not effect any jointure or antenuptial settlement or pecuniary provision heretofore made.

Proceedings if husband or wife refuses to release interest in real estate which owner has contracted to sell.

SECT. 10. If the owner of real estate contracts to sell the same, and the husband or wife of the owner refuses to release his or her interest and right by descent, the owner may apply to a justice of the supreme judicial or superior court, who, after such notice to the other party as he may order, and hearing, may, in his discretion, approve the sale and price, and order the owner to pay to the clerk of court, for such husband or wife of the owner, such sum as would amount to one-third of the price approved, if the owner has issue, and one-half if he has no issue, at the expiration of the owner's expectancy of life, computed at three per cent, compound interest. The clerk shall give a certificate of such approval by the court, and of the fact that said money has been paid as aforesaid, to be filed with the register of deeds in the county or registry district where the land lies, with the owner's deed thereof, and such register shall record the same; and thereafter such interest or right by descent in such real estate, shall be barred. Said clerk shall receive fifty cents for making, and said register twenty-five cents for recording such certificate.

Sec. 9, amended. Ch. 60, R. S., amended.

SECT. 11. Section nine of chapter sixty of the revised statutes is hereby amended, so as to read as follows:

Dower, alimony, and other provisions for wife in case of divorce for husband's fault.

SECT. 9. When a divorce is decreed for impotence, the wife's real estate shall be restored to her, and the court may enter judgment for her against her husband for so much of her personal property as came to him by the marriage, or its value in money, as it thinks reasonable; and may compel him to disclose, on oath, what personal estate he so received, how it has been disposed of, and what then remains. When a divorce is decreed to the wife for the fault of the husband

for any other cause, she shall be entitled to one-third, in common and undivided of all his real estate, except wild lands, which shall descend to her as if he were dead; and the same right to a restoration of her real and personal estate, as in case of divorce for impotence. The court may also decree to her reasonable alimony out of his estate, having regard to his ability; and to effect the purposes aforesaid, may order so much of his real estate, or the rents and profits thereof, as is necessary, to be assigned and set out to her for life; or instead of alimony, may decree a specific sum to be paid by him to her; and use all necessary legal processes to carry its decrees into effect.'

SECT. 12. Section six of chapter sixty-one of the revised statutes is hereby amended, so as to read as follows:

Sec. 6, ch. 61,
R. S.,
amended.

'SECT. 6. When a married woman dies intestate, her property, real and personal, descends as provided in chapter seventy-five of the revised statutes as amended by this act; and administration and distribution may take place accordingly; but a husband and wife, by a marriage settlement executed in presence of two witnesses before marriage, may determine what rights each shall have in the other's estate during the marriage, and after its dissolution by death, and may bar each other of all rights in their respective estates not so secured to them.'

How property
of married
woman, dying
intestate, shall
descend.

—husband and
wife may dis-
pose of it by
settlement.

SECT. 13. This act shall take effect May one, eighteen hundred and ninety-five, except as to such persons as are then married, and as to all such persons, it shall take effect January one, eighteen hundred and ninety-seven.

When act shall
take effect.