

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
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CHAP. 75.

CHAPTER 75.

TITLE BY DESCENT.

DESCENT OF REAL ESTATE.

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9. Widow's share of it.
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11. When an heir is indebted to the estate, a lien is created; how enforced.

DESCENT OF REAL ESTATE.

Rules of descent.
R. S. c. 75, § 1.

SEC. 1. The real estate of a person deceased intestate, being subject to the payment of debts, descends according to the following rules:

To children and lineal descendants.
45 Me. 113
53 Me. 493.

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

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

Mother, brothers and sisters.
14 Me. 309.

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

Mother.

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

Next of kin.
53 Me. 493.

Fifth.—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, in preference to those claiming through an ancestor more remote.

How property of minor, dying without marriage, descends.
1870, c. 113,
§ 26.

Sixth.—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.

If no kindred, to husband or wife, if any; otherwise it escheats to the state.
1869, c. 5.

Seventh.—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.

CHAP. 75.

Degrees of kindred, how computed.

R. S. c. 75, § 2.
32 Me. 312 and note.

SEC. 3. An illegitimate child born after March twenty-fourth, 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 a 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.

Heirship of an illegitimate child.

R. S. c. 75, § 3.
1864, c. 269.
37 Me. 333.
38 Me. 153.
55 Me. 469.

SEC. 4. If an illegitimate child dies intestate without lawful issue, his estate descends to his mother, and if she has deceased, 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.

Descent of an estate of an illegitimate.

R. S. c. 75, § 4.

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 are to be regarded as part of the estate of the intestate, and as taken towards a share of it.

Advancements, how established.

R. S. c. 75, § 5.
51 Me. 376.

SEC. 6. When the value of an advancement is determined by the intestate in his gift or charge, or is acknowledged in writing, it is to be allowed in the distribution; if not, the value is to be estimated at the time when given. When it exceeds his share, he is excluded from any further portion; when less, he is to receive sufficient to make it an equal share. He does not refund any part of an advancement.

How it operates on a distribution; not to be refunded.

R. S. c. 75, § 6.

SEC. 7. When an advancement is made in real, it is to be regarded as part of the real, and when in personal as part of the personal, estate. If it exceeds his share of the real or personal, 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 is to be regarded as made to such issue, and distribution is to be made accordingly.

Proceedings, when one receiving an advancement, dies.

R. S. c. 75, § 7.

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, is to be applied first to the payment of his debts, funeral charges, and charges of settlement; the residue is to be distributed or escheat by the rules provided for the distribution of real estate, subject to the following provisions.

Personal estate, how distributed.

R. S. c. 75, § 8.
See R. S. 1841, c. 93, § 15.
22 Me. 549.

CHAP. 75.

Widow's share.
R. S. c. 75, § 9.
45 Me. 250.
50 Me. 236.

Disposition of money received for insurance on life.
R. S. c. 75, § 10.
See c. 49, § 65.

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

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 shall have the same share in his wife's estate.

SEC. 10. A sum of 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 purposes specified in the first section 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, though the estate is insolvent.

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 decease, that 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 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 be established.