

## Descent.

1. Real estate to descend equally, without regard to sex.
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6. Amended by section 14.
7. Posthumous children of intestates inherit.
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## An act directing the descent of real estates.

Approved April 16, 1846.

1. That when any person shall die seized of any lands, tenements or hereditaments, in his or her own right in fee-simple (a) without devising the same in due form of law, leaving two (b) or more lawful children, such lands, tenements or hereditaments shall descend to, and be equally inherited by, all the lawful children of such person so seized, as tenants in common, and in equal parts, without regard to sex; *provided always*, that if any child of the person so dying seized, shall have died before his said ancestor, leaving lawful issue, the share or part of the said lands, tenements or hereditaments, which such child so dying would have been entitled to, under and by virtue of this act, if such child had survived the person so dying seized, shall descend to and be inherited by such issue, in the manner and in equal parts as before mentioned; and the same law of inheritance and descent shall be observed in case of the death of the grandchildren and other descendants, to the remotest degree; *and provided also*, that if any such ancestor shall, in his lifetime, have given or advanced (c) any part of his or her lands, tenements or hereditaments, to any of his or her issue, such issue shall not be entitled to any part or share of such ancestors' real estate, descending under or by virtue of this act, unless the real estate so given or advanced shall not be equal in value to the respective shares of the other issue in the same degree of affinity, as the case may be, and then no more than will be sufficient to make such share equal in value to the respective shares of the other issue, in the same degree of consanguinity to the said deceased ancestor.

2. That when any person shall die seized of any lands, tenements or hereditaments in his or her own right in fee-simple, without devising the same in due form of law, and without leaving lawful issue, leaving a brother or sister, or leaving a brother or brothers, and a sister or sisters of the whole blood, the inheritance shall descend to such brother or sister, or to such brother or brothers, and sister or sisters, as the case may be, as tenants in common, in equal parts; and in case any such brother or sister who would have inherited by this law, if living, shall die before the said person so

Rev. 392, 608, 774.

P. L. 1835, p. 67.

" 1838, p. 85.

R. S. 337.

Real estate to descend equally without regard to sex.

Issue to take parent's share. P. L. 1817, p. 8, § 1.

Rule as to advancements.

How brothers and sisters inherit, and their children. *Ib.*, § 3.

(a) Lands held in trust, upon the death of the trustee, descend, according to the rules of the common law, to the eldest son. *Boston Franklin Co. v. Condit*, 4 C. E. Gr. 393. *Wills v. Cooper*, 1 Dutch. 137. See *Schenck v. Schenck*, 1 C. E. Gr. 174. So, an estate tail will descend to the oldest son. Such course of descent was not interrupted or repealed until the passing of the act of June 13th, 1820 (*infra*, § 10). *Den, Spachius v. Spachius*, 1 Har. 172. *Den v. Robinson*, 2 South. \*706 (a). *Quick v. Quick*, 6 C. E. Gr. 13. An estate in reversion, after the determination of an estate tail devised in 1783, descended under the act of 1780, one-half to the male and one-fourth to each of the females. *Holcomb v. Lake*, 4 Zab. 686, 1 Dutch. 605. Where executors, under the authority of a will, transfer lands in satisfaction of a legacy to an infant, such lands, on the death of the infant, descend to her heirs. *Stevens v. Stevens*, 8 C. E. Gr. 296. See also *Trenick v. Flagg*, 5 Dutch. 25.

(b) If there should be but one child and he dies before the ancestor, leaving issue several children, they must take by common law, that is, by primogeniture. 4 *Grif. Reg.* 1250. See 4 *Kent* \*375.

(c) A grant, in consideration of natural love, by a father to a child of an estate tail, is such an advancement as bars, *pro tanto*,

her share in his real estate after his death. *Den, McGinnis v. McPeake*, *Pen.* \*291. A father put one of his sons in possession of lands which he occupied for twenty years and then sold, the father making the deed to the purchaser and the son receiving the consideration—*Held* to be an advancement. *Gordon v. Barkalew*, 2 Hal. Ch. 94. A child who has received an advancement cannot be compelled to pay anything on account of it to the other children. *Ib.* Whether a conveyance to a child is an advancement is a question of intent. *Speer v. Speer*, 1 *McCart.* 240. Where the money is paid by the father and the title taken in the name of the son, the purchase would be deemed an advancement. *Howell v. Howell*, 2 *McCart.* 75. But not where the son procures the deed to be made to him without the knowledge or consent of the parent. *Peer v. Peer*, 3 *Stock.* 432. An advancement in money, made by a father in his lifetime to one of his sons, cannot affect the share of the real estate of the father which, at his death, descends to the son. *Havens v. Thompson*, 8 C. E. Gr. 321. A conveyance of land by a parent to one of his children for a consideration named therein, of natural love and affection, or for a nominal consideration, is presumptively an advancement within the meaning of the proviso in this section. *Hattersley v. Bissett*, 6 *Dick.* 597.

seized, and leave a lawful child or children, such child or children, surviving the said person so seized, shall inherit, if a child solely, and if children, as tenants in common, in equal parts, such share as would have descended to his, her or their father or mother, if such father or mother had survived the person so seized; (a) and the same law of inheritance and descent shall be observed in case of the death of any child of such brother or sister before the person so seized, leaving a child or children.

When the father shall take.  
Ib., § 4.

3. That when any person shall die seized of any lands, tenements or hereditaments as aforesaid, without devising the same in due form of law, and without leaving lawful issue, and without leaving a brother or sister of the whole blood, or any lawful issue of any such brother or sister, leaving a father, then the inheritance shall go to the father of the said person so seized, in fee-simple, unless the said inheritance came to the person so seized from the part of his or her mother by descent, devise or gift, in which case it shall descend as if such person so seized had survived his or her father. (b)

When the mother shall take.  
P. L. 1838, p. 85.

4. That when any person shall die seized of any lands, tenements or hereditaments, in his or her own right in fee-simple, without devising the same in due form or law, and without leaving lawful issue, and without leaving a brother or sister of the whole blood or any lawful issue of any such brother or sister, and without leaving a father (leaving a mother), then the inheritance shall go to the mother of the said person so seized, for life; and after her death, the same shall go and descend as provided for in this act, in case the person so dying seized, shall die without leaving a mother capable of inheriting the same.

When the half blood shall take.  
P. L. 1817, p. 8, § 5.  
" 1838, p. 85.

5. That when any person shall die seized of any lands, tenements or hereditaments as aforesaid, without devising the same in due form of law, and without leaving lawful issue, and without leaving a brother or sister of the whole blood, or any lawful issue of any such brother or sister, and without leaving a father or mother capable of inheriting the said lands, tenements or hereditaments by this act, and shall leave a brother or sister of the half blood, or a brother or brothers, and a sister or sisters of the half blood, the inheritance shall descend to such brother or sister of the half blood, or to such brother or brothers, and sister or sisters of the half blood, as the case may be, as tenants in common, in equal parts; and in case any such brother or sister of the half blood, who would have inherited by this act, if living, shall die before the person so seized, and leave a lawful child or children, such child or children surviving the said person so seized, shall inherit, if a child, solely, and if children, as tenants in common, in equal parts, such share as would have descended to his, her or their father or mother, if such father or mother had survived the person so seized; and the same law of inheritance and descent, shall be observed in case of the death of any child of such brother or sister of the half blood, before the person so seized, leaving a child or children; *provided, always*, that in case the said lands, tenements or hereditaments came to the person so dying seized, by descent, devise or gift of some one of his or her ancestors, all those who are not of the blood of such ancestors, shall be excluded from such inheritance. (c)

And their issue.

6. [Amended by Sec. 14, *post*.]

Posthumous children of intestates inherit.  
Pat. L. 339, § 1.  
R. L. 392.

7. That if the father die intestate, his posthumous child or children shall take, possess and inherit his estate real and personal, in the same proportion and manner as if such child or children were born in the lifetime of the father.

(a) The children of a deceased brother do not take in exclusion of such brother's grandchildren, whose mother had died before the ancestor. *Den, Rodman v. Smith, Pen. \*7.*

(b) The words "from the part of his or her mother" are so construed as to include estates that come by descent, devise or gift from any relatives of the blood of the mother, as well as those that come from the mother herself. *Banta v. Demarest, 4 Zab. 431.* H. died intestate, seized of real estate, leaving a widow and two sisters and a grandson, D., the only child of a daughter, who was the only child of H. and died before the intestate, leaving a husband and said D. her surviving. D. died shortly after the intestate without issue. The father of D. cannot inherit the estate. *Haring v. Van Buskirk, 4 Hal. Ch. 515.* See *Post v. Rivers, 13 Steu. 21.*

(c) A tenant in tail died leaving one son and two daughters by his second wife, and four daughters by his first. The son enters and dies seized, without issue. All the sisters, both of the half and whole blood, take as co-heirs. *Pennington v. Ogden, Cox 192.* Brothers and sisters of the half blood do not inherit as such, unless the real estate comes from a common ancestor, or is acquired by the intestate. *Den, Lloyd v. Urison, Pen. \*212.* *Den, Pierson v. De Hart, Pen. \*481.* *Arnold v. Phoenix, 2 South. \*582.* *Den v. Jones, 3 Hal. 340.* *Den v. McKnight, 6 Hal. 385.* *Rake v. Lawshe, 4 Zab. 613.* But *cousins* of the half blood cannot inherit. *Stretch v. Stretch, 1 South. \*182.*



## Supplement.

Approved March 9, 1877.

P. L. 1877, p. 191.

Inheritance to go to mother of illegitimate person.

Proviso.

**13. SEC. 1.** That when any illegitimate person shall die seized of any lands, tenements or hereditaments, in his or her own right, in fee-simple, without devising the same in due form of law, and without leaving lawful issue (and leaving a mother), then the inheritance shall go to the mother of the said person so seized; *provided, always*, that nothing contained in this act shall be construed or taken to bar or injure the rights or estate of a husband, as a tenant by the curtesy, or a widow's right of dower, or to make void or in any way affect any marriage settlement. (a)

## Amendatory act.

Approved May 7, 1894.

P. L. 1894, p. 209.

When those of equal degree of consanguinity shall take.

P. L. 1817, p. 8, §§ 6, 7.

P. L. 1838, p. 85.

Curtesy, dower and marriage settlements saved.

Proviso.

Proviso.

**14. SEC. 1.** That section six of the act entitled "An act directing the descent of real estates" be amended so as to read as follows:

[That when any person shall die seized of any lands, tenements or hereditaments, as aforesaid, without devising the same in due form of law, and without lawful issue, and without leaving a brother or sister of the whole blood or half blood, or the issue of any such brother or sister, and without leaving a father or mother capable of inheriting by this act the said lands, tenements or hereditaments, and shall leave several persons all of equal degree of consanguinity to the person so seized, the said lands, tenements and hereditaments shall then descend and go to the said several persons of equal degree of consanguinity to the person so seized as tenants in common, in equal parts, however remote from the person so seized the common degree of consanguinity may be, unless where such inheritance came to the said person so seized by descent, devise or gift of some one of his or her ancestors, in which case all those who are not of the blood of such ancestor shall be excluded from such inheritance if there be any person or persons in being of the blood of such ancestors capable of inheriting the said lands, tenements or hereditaments; *provided always*, that nothing contained in this act shall be construed or taken to bar or injure the rights or estate of a husband as a tenant by the curtesy or a widow's right of dower, or to make void, or in any way affect any marriage settlement; *and provided further*, that when any person has heretofore died, or shall hereafter die so seized of any lands, tenements or hereditaments as aforesaid, without devising the same in due form of law, and without leaving any person, as hereinbefore enumerated, capable of inheriting the same, but leaving a husband or wife, the same shall descend and go to said husband or wife in fee-simple; *and provided further*, that nothing herein contained shall be operative or have any effect in any case or cases wherein any proceedings have been had or taken, or are now pending on behalf of the state, under and by virtue of the law as now existing, to escheat said lands; nor shall this act affect or in anywise impair any title to any land heretofore obtained under and by virtue of any proceedings heretofore had and taken in pursuance of law.] (b)

(a) A child born out of wedlock in Pennsylvania and rendered legitimate by the subsequent marriage and cohabitation of its parents in that state, is competent to inherit land in New Jersey. *Dayton v. Adkisson*, 18 *Stew.* 603. See *Friesner v. Symonds* 1 *Dick.* 521.

(b) A grandparent cannot take land in this state of which the grandson died seized. *Taylor v. Bray*, 3 *Pr.* 182. *Bray v. Taylor*, 7 *Pr.* 415. First cousins take in preference to cousins of a more distant degree. *Schenck v. Van, 9 Cl. E. Gr.* 538. In calculating the degrees of consanguinity in this state, the civil and not the canon-law rule is to be resorted to. *I. b.* An intestate died without issue, and without having had either brother or sister of the whole or half blood and without having a wife or father living. His mother survived him, and, by the statute, was entitled to his lands for life. His nearest relatives were two brothers of his father and a sister of his

mother, and several children of deceased uncles and aunts. *Held*, that the children of his two uncles and aunt took to the exclusion of the children of the uncles and aunts who were deceased when he died, although both of the uncles and also the aunt died during his mother's lifetime. *Bailey v. Ross*, 5 *Stew.* 544. By the sixth clause of the statute of descents, a great-uncle of an intestate is of equal degree of consanguinity with a cousin of such intestate. *Smith v. Gaines*, 9 *Stew.* 297. In cases depending on the sixth section of the statute of descents, where the lands have come to the person dying seized by descent, devise or gift of some ancestor, those who stand in the nearest degree of consanguinity to the person so seized shall inherit, if they are of the blood of such ancestor, although they may not stand nearest, *in virtue of the blood of such ancestor*, to the person last seized. *Muller v. Speer*, 11 *Stew.* 567, reversing 10 *Stew.* 492.

**An act concerning the proof of the descent and succession to real estate in cases of intestacy.**

Approved March 12, 1880.

P. L. 1880, p. 290.

**15. SEC. 1.** That in the case of the death of any person intestate, seized in fee or otherwise of real estate, within the state, it shall be lawful for the heir or heirs-at-law of such person, or any of them, or any person interested in such estate, to make an affidavit or petition setting forth the fact of such death, the last place of residence of said intestate, the number of heirs, their names, ages and respective places of residence and relationship to the deceased, and as nearly as possible describing such real estate and the respective interest of such heirs or parties interested.

Proof of descent and succession to real estate in cases of intestacy, by whom and how made.

**16. SEC. 2.** That such application when so made shall be presented to the orphans' court of the county in which such real estate is situated or to the orphans' court of any one of such counties, where said real estate may be situated in one or more counties, and the said orphans' court shall thereupon examine any witnesses under oath or take such other proof as is usual and admissible in other legal proceedings, and in like manner and with like powers and jurisdiction, as to the truth of the matters in such application set forth, and upon being duly satisfied as to the truth of all such matters shall indorse upon such application the certificate of said court, or of its then presiding officer, and thereupon the said petition or affidavit and all proofs and proceedings so taken shall be recorded in the county clerk's office of the county or counties in which said lands are situated, or in the office of any register of deeds for such county, in the same books and in like manner as deeds are now recorded; and from the date of such record, such record or roll shall be regarded and taken in all courts and legal proceedings in the state in respect to the descent and succession of said real estate as presumptive evidence of the matters and facts therein contained and by this act required to be stated.

Application to be presented to the orphans' court.

Orphans' court to examine witnesses, &c.

Petition, affidavits, &c., to be recorded in county clerk's or register's office.

**17. SEC. 3.** That the orphans' courts shall, from time to time, make such rules and regulations in pursuance and furtherance of this act as may be deemed necessary or expedient.

Orphan's court to make rules and regulations, &c.

## Disorderly Persons.

### I. WHO ARE DISORDERLY PERSONS.

1. Who shall be adjudged disorderly persons.
2. Further description of disorderly persons.
3. Liquor not to be sold to habitual drunkards. Dealers to be warned.
4. Penalty for selling to habitual drunkards.
5. Amended by section 33.
6. Loiterers, &c., to be adjudged disorderly.
7. Persons injuring school property or disturbing schools disorderly.
8. Disturbing quiet and good order of public library disorderly.
9. Professional pickpockets and thieves.

### II. PROCEEDINGS AGAINST.

10. Amended by section 33.
11. Justice to issue process against disorderly persons.
12. Children of vagrants, &c., may be bound apprentices.
13. Husband or father deserting family, how proceeded against.
14. Justice to try complaint. Order.
15. Trial by jury may be demanded.
16. Appeal to quarter sessions.
17. Justice to issue subpoenas. Adjournments, costs, &c.
18. Order to continue in force one year. Witnesses.
19. Appeal bond. Commitment.

### III. REMEDIES AGAINST PERSONS SUPPLYING DRINK TO CONVICTED DISORDERLY PERSONS.

20. Penalty for selling liquor to convicted disorderly persons, after notice.
21. When suit to be commenced.
22. Execution to issue against body and goods.

### IV. SUPPLEMENTS.

23. Amended by section 27.
24. Amended by section 25.
25. Fees of justice of the peace, &c.
26. Repealer.
27. In cities, persons arrested to be taken before police court, police justice or recorder.
28. Proceedings when wife or family are a public charge in poorhouse.
29. Warrant, how issued, when husband or father out of county.
30. Party apprehended to give bond for appearance.
31. Proceedings in default of person giving bond.
32. Persons committed as disorderly to be kept at hard labor.
33. Husband or father deserting, &c., wife or family, adjudged a disorderly person.
34. Arrests may be made on Sunday.
35. May be taken before a magistrate on Sunday.
36. Disorderly persons to be apprehended, taken before a justice and punished.
37. Repealer.
38. Persons carrying concealed weapons deemed disorderly.

### V. MISCELLANEOUS ACTS.

39. Where no workhouse in county, commitments to be made to county jail.
40. Amended by section 41.
41. Persons jumping on and off railroad cars, disorderly persons. Penalty.