

Widows, Dower Rights of. Dower, Rights of Widow in Estate of Deceased Husband.

In this state, if a husband die intestate, leaving as survivors children or descendants of children, the widow may take her dower and may also claim a share in the residue of the estate as heir. If the husband die testate, the widow may take under the will in lieu of dower, or may renounce her rights under the will and take dower.

December 15, 1915.

Hon. W. D. Goodwin,
Examiner of Inheritance,
Fort Peck Agency, Poplar, Montana.

Dear Sir:

I am in receipt of your letter requesting an opinion upon the question:

“Whether or not a widow has a right, under the laws of the State of Montana, to elect to claim her dower right in the estate of her deceased husband, or to relinquish this right and accept in lieu thereof an interest in fee simple in the estate, in the event said deceased husband was survived by children or descendants of children?”

In this state, if the husband die intestate, leaving as survivors, children or descendants of children, the widow may take her dower (Revised Codes of 1907, Sec. 3708), and may also claim a share in the residue of the estate of her deceased husband as heir.

Dahlman v. Dahlman, 28 Mont. 373.

The widow may waive her right to dower in a variety of ways.

Hannan v. Hannan, 46 Mont. 253.

If the husband die testate, the widow may take under the will in lieu of dower, or may within one year after probate, or authentication

of the will, renounce her right to take under the will altogether, and claim her dower right, in which event it seems the residue of the estate is distributed according to the terms of the will, and she is precluded from taking further as heir (R. C. '07, 3714, 3715).

Yours very truly,

J. B. POINDEXTER,

Attorney General.