

The argument of the counsel for some of the defendants is, that the Act of 1825 does not embrace the case of a female who leaves legitimate and illegitimate children, but operates only when the mother dies, leaving an illegitimate child or children. Such, however, does not seem to me to be the true construction of the Act. Its language is, that from and after its passage, "the illegitimate child or children of any female, and the issue of any such illegitimate child or children, be, and they are hereby declared to be, able and capable in law to inherit both real and personal estate from their mother, or from each other, and from the descendants of each other, as the case may be, in the same manner as if born in lawful wedlock."

There is certainly nothing in the words of the Act which should confine its operation to the case of a woman leaving none but illegitimate offspring, and I can conceive of no public policy looking to the morals of society, which recommends the restricted construction contended for. If the law be as the defendants' counsel supposes, then an unmarried woman who has wandered or been seduced from the path of virtue, can never marry and give birth to legitimate offspring, without incurring the risk of cutting off the innocent fruit of her crime from the benefit of any property she may leave, as from a variety of circumstances it may be found impossible to bring such offspring, within the provision of the law of 1820, ch. 191. She may either not marry the father of her illegitimate child, or if she does, he may not choose to acknowledge it as prescribed by that Act.

But, independent of any such reasoning, the language of the Act of 1825 leaves, as I think, no room for doubt upon the subject. The illegitimate child or children take and inherit from the mother as if born in lawful wedlock. They are, therefore, so far as the estate of the mother is concerned, placed in the condition of legitimate children in all respects, and to every intent, and it can make no difference whether the mother leaves other children born in lawful wedlock. Those born out of wedlock are, by the force of this legislative enactment, made to take