

Book VI.
Title IX.

When the shares of nonclaimants accrue to the benefit of claimants.
(Quando non petentium partest petentibus ad crescent.)

Bas. 40.7.1.

6.10.1. Emperor Gordian to Marciana.

There is no doubt that whenever, the statutory (common law) succession not applying, several children are called to the right of possession of an inheritance and some of them fail to claim the benefit of the perpetual edict,¹ the portion of those who make no claim accrues to those who do.

Given January 13 (244).

Note.

Where there were several heirs of the same degree of relationship, and all were equally entitled to the inheritance, and one or more of them refused to take their share, the shares refused either lapsed and went to the state, or accrued to the other heirs. The foregoing rescript provides that the shares of children who refuse to accept go to the other children, and this was the law at all times as to them. It was not always true as to other heirs, and a policy was adopted for a time that certain shares of heirs who could not take or refused to take should be forfeited to the state; that is to say, should lapse. The subject is more fully treated in C. 6.51 and headnote thereto.

¹ [Blume] I.e. fail to claim the right of possession.