

BILL

No. 15 of 1928.

An Act respecting the Distribution of Estates of Intestates.

(Assented to _____, 1928.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

SHORT TITLE.

1. This Act may be cited as "*The Intestate Succession Act.*"

INTERPRETATION.

2. In this Act unless the context otherwise requires—

- (a) "Estate" shall include both real and personal property;
- (b) "Issue" shall include all lawful lineal descendants of the ancestor.

3. This Act shall apply only in cases of death after its commencement.

4.—(1) If an intestate dies leaving a widow and one child, one-half of his estate shall go to the widow.

(2) If he leaves a widow and children, one-third of his estate shall go to the widow.

(3) If a child has died leaving issue and such issue is alive at the date of the intestate's death, the widow shall take the same share of the estate as if the child had been living at that date.

5.—(1) If an intestate dies leaving issue, his estate shall be distributed, subject to the rights of the widow, if any, *per stirpes* among such issue.

(2) Where the net value of the estate does not exceed the sum of fifteen thousand dollars, the official guardian, upon application being made to him, may direct that all or any part of the share of any issue of the intestate shall be paid to the widow for the education, maintenance or advancement of such issue, at such time or times as may seem fit to him.

6. If an intestate dies leaving a widow but no issue, his estate shall go to his widow.

7. If an intestate dies leaving no widow or issue, his estate will go to his father and mother in equal shares if both are living, but if either of them is dead the estate shall go to the survivor.

8. If an intestate dies leaving no widow or issue or father or mother, his estate shall go to his brothers and sisters in equal shares, and if any brother or sister is dead, the children of the deceased brother or sister shall take the share their parent would have taken, if living:

Provided that where the only persons entitled are children of deceased brothers and sisters, they shall take *per capita*.

9. If an intestate dies leaving no widow, issue, father, mother, brother or sister and no children of any deceased brother or sister, his estate shall go to the next-of-kin.

10. In every case where the estate goes to the next-of-kin, it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent him; but in no case shall representation be admitted among collaterals after brothers' and sisters' children.

11. For the purposes of this Act, degrees of kindred shall be computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative; and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree.

12. Descendants and relatives of the intestate, begotten before his death but born thereafter, shall inherit as if they had been born in the lifetime of the intestate and had survived him.

13.—(1) If any child of a person who has died wholly intestate has been advanced by the intestate by portion, the portion shall be reckoned, for the purposes of this section only, as part of the estate of the intestate distributable according to law; and, if the advancement is equal to or greater than the share of the estate which the child would be entitled to receive as above reckoned, the child and his descendants shall be excluded from any share in the estate; but if the advancement is not equal to such share, the child and his descendants shall be entitled to receive so much only of the estate of the intestate as is sufficient to make all the shares of the children in the estate and advancement equal as nearly as can be estimated.

(2) The value of any portion advanced shall be deemed to be that which has been expressed by the intestate or acknowledged by the child in writing, otherwise the value shall be the value of the portion when advanced.

(3) The onus of proving that a child has been maintained or educated, or has been given money, with a view to a portion, shall be upon the person so asserting, unless the advancement has been expressed by the intestate, or acknowledged by the child, in writing.

14. All such estate as is not disposed of by will shall be distributed as if the testator had died intestate and had left no other estate.

15. Subject to the provisions of *The Dower Act*, no widow shall be entitled to dower in the land of her deceased husband dying intestate, and no husband shall be entitled to an estate by the curtesy in the land of his deceased wife so dying.

16. Illegitimate children and their issue shall inherit from the mother as if the children were legitimate, and shall inherit as if the children were legitimate, through the mother, if dead, any real or personal property which she would have taken, if living, by gift, devise or descent from any other person.

17. If an intestate, being an illegitimate child, dies leaving no widow, or issue, his estate shall go to his mother, if living, but if the mother is dead his estate shall go to the other children of the same mother in equal shares, and if any child is dead the children of the deceased child shall take the share their parent would have taken if living:

Provided that where the only persons entitled are children of deceased children of the mother, they shall take *per capita*.

18. The estate of a woman dying intestate shall be distributed in the same proportions and in the same manner as the estate of a man so dying, the word "husband" being substituted for "widow," the word "her" for "his," the word "she" for "he," and the word "her" for "him," where such words respectively occur in sections 4, 5, 6, 7, 8, 9, 12 and 17.

19.—(1) If a wife has left her husband and is living in adultery at the time of his death, she shall take no part of her husband's estate.

(2) If a husband has left his wife and is living in adultery at the time of her death, he shall take no part of his wife's estate.

20. This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of those provinces which enact it.

21. This Act shall come into force.....

No. 15.

SECOND SESSION
SIXTH LEGISLATURE
18 GEORGE V
1928

B I L L

An Act respecting the Distribution
of Estates of Intestates.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. LYMBURN

EDMONTON:
W. D. MCLEAN, ACTING KING'S PRINTER
A.D. 1928