

Bill No. 8 of 1934.

A BILL TO AMEND THE ULTIMATE HEIR ACT, 1931.

NOTE.

The amendment made by this Bill makes provision for the consideration by the University of claims made to estates vested in the University pursuant to the Act, and empowers the University in a proper case to admit the claim and transfer the estate accordingly.

Provision is also made for the bringing of actions against the University in respect of claims to such estates with the consent of the Attorney General, and for the disposition of such actions in case the action is dismissed or the claim is established, as the case may be.

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 8 of 1934.

An Act to amend The Ultimate Heir Act, 1931.

(Assented to 1934.)

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

1. This Act may be cited as "*The Ultimate Heir Act, 1931, Amendment Act, 1934.*"

2. *The Ultimate Heir Act, 1931*, being chapter 18 of the Statutes of Alberta, 1931, is hereby amended as to section 6 thereof by striking out the same and by substituting therefor the following:

"6.—(1) If after the transfer or delivery of any estate or any portion thereof to the University pursuant to this Act any person claims that he is entitled by law to same or any part thereof, or any interest therein, he shall submit to the University the proof of the facts upon which he bases his claim, and the University shall proceed to the consideration thereof, and if the University is thereby satisfied with the validity of the claim, either in whole or in part, in may admit the same and transfer or deliver to the claimant so much of the estate as the University admits he is entitled by law to receive.

"(2) In any case where the University, after considering a claim and the evidence submitted thereon, does not admit the same, either wholly or in part, the claimant may, with the consent in writing of the Attorney General, commence an action in the Supreme Court of Alberta in the judicial district of Edmonton for a declaration that he is entitled by law to the said estate or a portion thereof, or an interest therein, and in any such action the fact that the University does not admit the claim of the plaintiff shall be deemed to be a good defence to the action on the merits for the purpose of any Rule of Court.

"(3) If the claimant fails to prosecute his action, or fails to establish his claim, his action shall be dismissed with costs.

"(4) Where any such action is brought, if at any time before the trial thereof the University admits the plaintiff's claim, or if upon trial the Court is satisfied by evidence that the claimant is entitled by law to the estate or some portion thereof, or some interest therein, the plaintiff shall be entitled to a declaratory judgment that he is so entitled.

“(5) If the University admits the right of the claimant to the estate or any portion thereof or any interest therein, or in the event of a judgment declaring that the claimant is entitled to any estate or any portion thereof, or any interest therein, the University shall do all acts and things necessary for the purpose of giving effect to the right of the claimant and if and to the extent that it may be necessary for that purpose, shall transfer to the claimant any undisposed of portion of the estate come to its possession as well as the net proceeds derived from the disposition of any portion of the said estate which has been disposed of by it, after deducting therefrom all expenses, including costs, incurred by it in connection with the said estate or any portion thereof.

“(6) The University shall be entitled to retain as compensation for its management of the estate any rents and profits and any interest received by or payable to it while the estate has been in its possession, and in the event of any disagreement between the claimant and the University as to the assets and proceeds to be transferred, the matters in dispute shall be settled by the Provincial Auditor whose certificate shall be final and conclusive.

“(7) Upon the University transferring the estate to the successful claimant it shall be freed and discharged from all claim by any claimant whatsoever.”

3. This Act shall come into force on the day upon which it is assented to.

FOURTH SESSION
SEVENTH LEGISLATURE
24 GEORGE V
1934

BILL

An Act to amend The Ultimate Heir
Act, 1931.

Received and read the

First time

Second time.....

Third time.....

HON. MR. LYMBURN

EDMONTON:
W. D. MCLEAN, KING'S PRINTER
1934