
WHEREAS the right of Primogeniture and other principles of the Common Law respecting the descent of Real Estates are not so well adapted to the circumstances of His Majesty's Subjects, and the State of Society, in this Province, as the Laws respecting the distribution of Personal Estates: And whereas it is expedient, that the rules of descent and distribution of Intestate Estates be rendered more simple and uniform, and be specified in a Provincial Statute for the direction of all persons concerned; Therefore, be it enacted, by the Kings Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of Upper Canada, constituted and assembled by virtue of, and under the authority of, an Act passed in the Parliament of Great Britain, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled 'An Act for making more effectual provision for the Government of the Province of Quebec in North America and to make further provision for the Government of the said Province,'" and by the authority of the same, That whenever hereafter a person shall die seized in this Province of any Land, Tenement, or Hereditament, or any Interest therein, or Right thereto, in fee simple, or for the life of another, not having lawfully devised it, the same (subject to the payment of the Intestate debts, according to Law, when the Personal Estate shall be insufficient therefor) shall descend to the Intestate's Child or Children in equal shares, and to the lawful issue of any deceased Child by right of representation, saving to the Intestate's husband his Tenancy by the Courtesy and to the Intestate's widow her Dower as at Common Law; and if the Intestate shall leave no issue the same shall descend to the surviving husband or the widow, in case of a widow and no kindred of the Intestate, but if there be kindred, as well as a widow of the Intestate One moiety of the same shall descend to the said widow, and the other moiety be inherited by the person or persons who would by virtue of this Act inherit the whole if there were no widow; and if there be no issue, husband, or widow, the same shall be inherited by the Intestate's Father; and if there be no father, then in equal shares by the Mother and each of the Brothers and Sisters of the intestate, and the Child or Children of any deceased Brother or Sister by right

of representation, and if there be no Mother, Brother, or Sister, or Brother's or Sister's Child, then by the Intestates next in kin of equal shares, without any distinction between those of the whole, and those of the half, blood; the degrees of kindred to be computed according to the rules of the Civil Law; collateral kindred claiming through a nearer ancestor to be preferred to those claiming through a common ancestor more remote, and if the issue or next of kin, entitled to any Estate by virtue of this Act, shall all be in the same degree of kindred to the Intestate they shall share the Estate equally, otherwise they shall take it according to the right of representation: and when there shall be neither Issue, Husband, Widow, Parent, nor other kindred, the Estate shall, for want of Heirs, escheat to His Majesty the King, His Heirs and Successors.

And be it further enacted by the authority aforesaid, That whenever hereafter a person domiciled in this Province, shall die possessed of, or entitled to, any Chattel or Personal Estate or right, not having lawfully disposed of the same by Will, the same being subject to the payment of the Intestate's debts, the funeral expenses and charges of administration according to Law, the Residue thereof shall be distributed to the person or persons who shall by virtue of this Act be entitled to the said Intestates real Estate, and in the same proportion as real Estate; provided, however, that the Intestate's husband shall have the whole of the said Residue as Administrator, whether there be issue of the Intestate or not; and if there be a widow and issue of the Intestate, the widow shall have one third part of the said Residue; but, if there be no issue, she shall have one half of the said Residue, and if there be no kindred, she shall have the whole of the said Residue.

And be it further enacted by the authority aforesaid, That if a Gift or Grant of any Estate, Real or Personal, shall have been made by the Intestate in his or her life time to a Child in advancement of the said Child's portion, and so expressed in the said Gift or Grant, or so charged by the Intestate in writing, or so receipted or acknowledged in writing by the Child, the Estate so advanced at the value thereof, as expressed or charged by the Intestate, or acknowledged by the Child or other wise at the just value thereof by Estimation of Appraisers under Oath, shall be considered in the Settlement of the Intestates Real and Personal Estate, as a part thereof, and shall be accepted by the said Child towards his or her share of the Intestate's Estate.

And be it further enacted by the authority aforesaid, That after one year from the death of any person dying Intestate, seized as afore-

said of Real Estate, the Judge of the Probate Court of this Province, in case such Real Estate shall be situated in two or more Districts, or if it be in one District only, the Judge of the Surrogate Court of that District, upon the written application therefor of any Person or Persons entitled by virtue of this Act to inherit the same or any part thereof, may and shall cause notice of such Application to be published in the Upper Canada Gazette, or in some Public Newspaper published in the District where the said Estate is situate, or if no Newspaper shall be published in such District in that case to be posted up in some public place in the Town or Township wherein such Real Estate shall be situate, for such time (not less than One Calendar Month) as the said Judge may think reasonable, having regard to the circumstances of the case, and after such notice so published, or posted up, may and shall decree that the said Estate be divided and set off in severalty to the persons entitled to inherit the same, according to this Act, and may and shall thereupon appoint three freeholders to divide and set off the same, which said freeholders, being first sworn to perform the service faithfully and impartially according to their best skill and judgment, shall divide and set off the same in severalty to and among the several persons entitled thereto, and report such division in writing under their hands and seals to the said Judge who shall order the same to be recorded by the Register of the said Court, and a Copy thereof shall also be recorded in the Register's Office of the County or Counties wherein such Estate shall be situate, and when so recorded the said division shall be as valid and effectual a partition of the Estate as if it were a Deed of partition thereof duly executed by the persons respectively entitled thereto being of lawful age therefor; and a Copy of such division certified by the proper Officer of the said Court under the seal of the said Court shall be admissible evidence thereof: Provided always, That if any one or more of the persons so entitled to inherit such Estate, when a division thereof shall be so decreed, shall be under the age of Twenty One Years, not having a lawful Guardian, the said Judge before making such decree shall appoint some suitable person to be Guardian of each of such Infant Heirs.

And be it further enacted by the authority aforesaid, That if after such division of an Intestate real Estate, the portion set off to one of the Heirs, or a part thereof, shall be taken and sold by process of Law for a debt of the Intestate, and an equal proportion shall not be in like manner taken from each of the other Heirs, they shall respectively be liable to contribute a proportionable sum to

the Heir from whom more than his proportion of such debt shall have been taken as aforesaid, and in case of refusal such Heir shall be entitled to his action, or actions, on the case, to enforce such rateable contribution.

Commons House of Assembly,
Twenty first day of November, 1825. }

JOHN WILLSON,
 SPEAKER.

YORK ;

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