

TESTAMENTARY SYSTEM.

the place of his, her or their deceased ancestor; provided, that if any child, or descendant, shall have been advanced by the intestate, by settlement or portion, the same shall be reckoned in the surplus, and if it be equal, or superior to a share, such child or descendant shall be excluded, but the widow shall have no advantage by bringing such advancement into reckoning; and maintenance, or education, or money given without a view to a portion or settlement in life, shall not be deemed advancement; and in all cases those in equal degree, claiming in the place of an ancestor, shall take equal shares.

7. If there be a father, and no child or descendant, the father shall have the whole.

8. If there be a brother or sister, or child or descendant of a brother or sister, and no child, descendant, or father of the intestate, the said brother, sister or child, or descendant of a brother or sister, shall have the whole.

9. Every brother and sister of the intestate shall be entitled to an equal share, and the child or children of a brother or sister of the intestate shall stand in the place of such brother or sister.

10. If the intestate leave a mother, and no child, descendant, father, brother, sister or child, or descendant of a brother or sister, the mother shall be entitled to the whole, and in case there be no father, a mother shall have an equal share with the brothers and sisters of the deceased, and their children and descendants.

11. After children, descendants, father, mother, brothers and sisters, of the deceased, and their descendants, all collateral relations, in equal degree, shall take, and no representation amongst such collaterals shall be allowed; and there shall be no distinction between the whole and half blood.

12. If there be no collaterals, a grand-father may take, and if there be two grand-fathers, they shall take alike, and a grand-mother, in case of the death of her husband, the grand-father, shall take as he might have done.

13. If any person entitled to distribution shall die before the same be made, his or her share shall go to his or her representatives.

14. Posthumous children of intestates shall take in the same manner as if they had been born before the decease of the intestate, but no other posthumous relations shall be considered as entitled to distribution in his or her own right.

15. If there be no relations of the intestate within the fifth degree, which degree shall be reckoned by counting down from the common ancestor to the more remote, the whole surplus shall belong to the state, to be applied, as the legislature shall hereafter direct, to the education of poor children.

16. In case the surplus remaining in the administrator's hands after payment of all just debts exhibited and proved, or notified and not barred, or after retaining for the same, shall consist of specific property, or articles mentioned in the inventory or inventories; the administrator, if he cannot satisfy the parties, may apply to the court to make the distribution, and the court may appoint a day for making distribution, and by summons call upon the said parties to appear; and the said court may, at the appointed time, proceed to distribute, but if a majority in point of value shall neglect to appear, or appearing shall object to the distribution of the articles, or if the court shall deem a sale of the said articles, or of any part of them, more advantageous, a sale shall be directed accordingly, and the rules, herein before laid down, relative to a sale by order of the said court, shall be observed.