

fary part of the personal estate, to be appropriated for the purpose, shall be prevented from lying dead, or being unproductive, and how it shall be applied, agreeably to the intent of the will, or the construction of law, in case the contingency shall not take place.

CHAP. 18. *Distribution of an intestate's personal estate.*

WHEN all the debts of an intestate, exhibited and proved, or notified and not barred, shall have been discharged, or settled and allowed to be retained, as herein directed, the administrator shall proceed to make distribution of the surplus as follows.

1. If the intestate leave a widow, and no child, parent, grand-child, brother or sister, or the child of a brother or sister of the said intestate, the said widow shall be entitled to the whole.

2. If there be a widow, and a child or children, or a descendant or descendants from a child, the widow shall have one third only.

3. If there be a widow, and no child, or descendants of the intestate, but the said intestate shall leave a father, or mother, or brother or sister, or child of a brother or sister, the widow shall have one half.

4. The surplus, exclusive of the widow's share, or the whole surplus, (if there be no widow,) shall go as follows.

5. If there be children, and no other descendant, the surplus shall be divided equally amongst them.

6. If there be a child or children, and a child or children of a deceased child, the child or children of such deceased child shall take such share as his, her or their deceased parent, would (if alive) be entitled to; and every other descendant or other descendants in existence at the death of the intestate, shall stand in 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 decease, 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 her 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 relation 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, saving to the different schools in this state the rights which by existing laws they now respectively possess.

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