



INTESTATES' ESTATES BILL, 1951.

EXPLANATORY MEMORANDUM.

I. PURPOSE OF THE BILL.

1. In very general terms the purpose of the Bill may be said to be to remedy what are generally regarded as defects in the existing law relating to the devolution of the property of a man who dies intestate leaving a widow but no issue.

II. PRESENT STATE OF THE LAW.

2. The present statute law is contained in two Acts, one being a very old Act of 1695 (7 Will. III, c. 6), which is commonly known as the Statute of Distribution, and the other being the Intestates' Estates Act, 1890. In the existing state of the law, the devolution of the property of a man dying intestate leaving a widow but no children depends on whether the property consists of real or personal estate and may also depend on the nature of the intestacy.

3. If the net value of the estate, both real and personal, is not more than £500, it passes to the widow absolutely.

If the net value exceeds £500, the widow gets—

- (i) £500 absolutely, and
- (ii) one half of the remainder of the personal estate, which for this purpose includes freehold land registered under Part IV of the Registration of Title Act, 1891, i.e., land purchased from the Land Commission and paid for by a land annuity.

The other half of the remainder of the personal estate is distributed among the deceased's next-of-kin (of whom the wife is not one) and, if there are no next-of-kin, it escheats to the State.

Real estate (exclusive of freehold land registered under Part IV of the 1891 Act) passes to the deceased's heir-at-law (or to the State if there is no heir-at-law) and, in no circumstances, can the widow succeed to it. She has merely a right of dower, namely, a life interest to the extent of one-third of the real estate.

In the case of a partial intestacy, the Act of 1890 has been held not to apply and the widow has, consequently, no right to the first £500. She gets only one-half of the personal estate (including again the freehold registered land mentioned above) as to which her husband died intestate, the other half being distributed amongst the next-of-kin.

III. THE PROPOSALS IN THE BILL.

4. *Section 1* of the Bill provides that the Act shall come into operation on the 1st January, 1952. This is to allow persons concerned an opportunity of making their wills if they do not wish their property to be dealt with in accordance with the terms of the new legislation.

5. *Section 2* provides that the widow shall have the whole of her husband's personal estate (including freehold registered land to which Part IV of the 1891 Act applies) if he dies intestate leaving

no children. Similarly, if he dies intestate as to part of such personal estate, the widow will succeed to all that part of the personal estate.

6. Section 3 deals with real estate other than freehold registered land to which Part IV of the 1891 Act applies. Under the section the widow will have a life interest in the whole (instead of the present one-third) of the real estate which, by reason of her husband's intestacy, descends to his heir-at-law.

Department of Justice,
April, 1951.

I. The purpose of the Bill is to amend the law relating to the intestacy of a person who dies intestate leaving a widow but no issue.

II. The present law is contained in the Intestates' Estates Act 1891 (54 & 55 Vict. c. 38) and the Intestates' Estates Act 1901 (14 & 15 Geo. 5, c. 10). The section dealing with the intestacy of a person who dies intestate leaving a widow but no issue is contained in section 3 of the 1891 Act. It provides that the widow shall have a life interest in one-third of the real estate which, by reason of her husband's intestacy, descends to his heir-at-law.

III. The purpose of the Bill is to amend the law relating to the intestacy of a person who dies intestate leaving a widow but no issue. The Bill amends section 3 of the 1891 Act so that the widow shall have a life interest in the whole of the real estate which, by reason of her husband's intestacy, descends to his heir-at-law.