

SURROGATE COURT OF THE COUNTY OF HASTINGS.

DEROCHE, SURR. CT. J.

SEPTEMBER 24TH, 1917.

RE CARSCALLEN.

Distribution of Estates—Devolution of Estates Act, R.S.O. 1914 ch. 119—Persons Entitled to Share in Estate of Intestate Deceased—Nephews and Nieces—Exclusion of Grandnephews and Grandnieces—Distribution per Capita and not per Stirpes.

An application by the administrator of the estate of Ann Carscallen, deceased, intestate, for a summary order determining the question who were the persons entitled to share in the estate.

All parties consented to the question being determined by the Judge upon a summary application.

W. N. Ponton, K.C., for the administrator and the nephews and nieces of the intestate.

E. J. Butler, for the grandnephews and grandnieces.

DEROCHE, SURR. CT. J., held that under the Devolution of Estates Act, R.S.O. 1914 ch. 119, the surviving nephews and nieces of the deceased intestate were alone entitled to share in her estate and that the grandnephews and grandnieces were not entitled to any share; and that the distribution among the nephews and nieces should be per capita and not per stirpes.