

estate of intestates if I had died at the time of such failure or determination intestate." Under this clause the widow claimed to be entitled to be paid £500 out of the whole estate under s. 2 of the Intestates Estates Act, 1890 (see. R.S.O. c. 119, s. 12), on the ground that the latter Act was included in the term of statutes for the distribution of the personal estate of intestates; but Eve, J., who heard the motion, was of the opinion that the term "statutes of distributions" used in the will only included the Act of Charles II. which, by the Short Titles Act of 1896, may be cited as "the Statute of Distribution" and the confirming and amending Act, 1 Jac. 2. c. 17. He thought the Act of 1890 did not come within the term because it did not apply to intestates generally, but only those leaving a widow but no issue, and the further provision thereby made is not payable solely out of the personal estate, but rateably out of real and personal estate; and further, is only applicable where a person dies intestate, whereas the present case was not a case of intestacy; and that although the persons to participate in the residuary estate were to be ascertained and their interests determined by reference to the statutes applicable to an intestacy, they nevertheless do not take by virtue of those statutes, but solely under the will.

BRITISH COLUMBIA—RAILWAY—EXEMPTION FROM TAXATION—
LAND FORMING PART OF RAILWAY—APPROVED PLACES—
FAILURE TO CONSTRUCT RAILWAY.

Armstrong v. Canadian Northern Pacific Railway Company (1920) A.C. 216. This was an appeal from the Court of Appeal of British Columbia. The question involved was a simple one. By an Act of British Columbia the plaintiff's company was authorised to construct a railway, and its properties and assets which form part of, or are used in connection with, the operation of its railway "were exempted from taxation." The plaintiff's company had acquired land for the purposes of its railway, and had obtained approved plans for its construction, but had taken no steps whatever to construct the railway, and the action was brought by the railway company against a municipality claiming a declaration that the lands thus acquired were exempt from taxation. The Judge who tried the action held that they were part of the plaintiff's right of way and were exempt, and the Court of Appeal affirmed his decision, but the Judicial Committee of the Privy Council (Lords Haldane, Buckmaster and Dunedin, and Duff, J.) were unable to agree with that conclusion, being of the opinion that so long as the land in question was not actually used as a part of the railway actually constructed, the exemption did not. Their Lordships consider the case, was governed by the previous decision of the Board in *Canadian Northern Pacific Co. v. New Westminster* (1917), A.C. 602.