

**Opinion No. 17-1940**

February 27, 1917

**BY:** HARRY L. PATTON, Attorney General

**TO:** Mr. E. B. Merritt, Assistant Commissioner, Office of Indian Affairs, Washington, D.C.

A Stepfather May Inherit Estate of Stepson, in the Absence of Other Heirs.

**OPINION**

Your letter of January 26th was received some time since but owing to the fact that our State Legislature is in session, and owing to the general rush of work in this office, I have been unable to reply to the same before this time.

The section of our statutes referred to by you and concerning which you inquire, now appears as Section 1846. Code of 1915. Our courts have never construed this statute and I know of no rule of construction that has been adopted by any of the Probate Courts of the State.

The question asked by you is whether or not Vaquero Bonito, as the lawful husband of Silkyer Price Bonito, the prior deceased mother of Pinya Bonito, inherits the estate of Pinya Bonito, who died without issue and leaving him surviving no widow, father or mother. As I have before stated, the courts have never passed upon this question in our jurisdiction. In my opinion, however, the said stepfather would inherit such estate. I base such opinion upon the construction placed upon a statute almost identical to this by the courts of the States of Kansas and Iowa. The following authorities, in my opinion, sustain me in such position:

Sarver v. Beal, 36 Kan. 555, 13 Pac. 743;

Dodge v. Beeler, 12 Kan. 524;

McKinney v. Stewart, 5 Kan. 524;

Moore v. Weaver, 53 Iowa, 11, 3 N. W. 741;

In re Parkin's Estate, 97 Iowa, 593, 66 N. W. 908.

Begging your pardon for this apparent neglected duty, I am