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Children of the Half Blood

BY C. EDGAR KETTERING*

An article showing considerable thought appeared in the June number of DICTA¹ dealing with the construction of that part of the 1941 amendment to Section 4 of Chapter 176 of the 1935 Colorado Statutes Annotated, relating to the inheritance by collateral relatives of the half blood. I think the conclusions of the article "that children of the intestate's half blood brother or sister cannot take," and "whether the half blood can take might be open to argument," are incorrect and violate the plain language of section 4, as amended.

The present statute reads: "Collateral relatives of the half blood shall inherit only the half measure of collateral relatives of the whole blood, if there be any of the last-named class living." What could be clearer?

A half blood brother is surely a "collateral relative of the half blood," and therefore he "shall inherit" half as much as he would if he were a full brother. His children are nephews and nieces of the deceased and are therefore also "collateral relatives of the half blood."²

The right of inheritance of brothers and sisters and children of deceased brothers and sisters is clearly set forth in Section 1, Chapter 176. The same rule of inheritance would apply in the case of half blood brothers and sisters or half blood nephews and nieces, except that they would receive only half as much as they would receive had they been related by the full blood.

To illustrate: I was recently asked my opinion by a county judge of another county on the following set of facts:

"A bachelor dies intestate, leaving an estate. He leaves two living full brothers, the children of two dead full sisters and the children of two dead half sisters. What is the right of inheritance and in what shares?"

It would be my opinion that each of the two living full brothers would receive a one-fifth interest; that the one-fifth share of each of the two deceased full sisters would be divided between their respective children; and that the share of each of the half sisters would be one-tenth (that is, "half measure of collateral relatives of the whole blood"), and they being deceased, each of their shares would be divided between their children respectively in the same manner as the share of the deceased full brother or sister would be divided among his or her children.

I do not believe the 1941 amendment was unwise or unnecessary, as indicated by the above mentioned article; but, regardless of that, I

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¹Thomas, *Children of the Half Blood* (1941) 18 DICTA 158.

²11 CORPUS JURIS 960.

believe the present language is unambiguous and accomplishes what the legislature obviously intended and what the author of the above article agrees should have been accomplished.

Regional Institutes Planned for Entire State by Colorado Bar Committee

The winter institute program of the state bar has been proving a great success, according to reports received from the local bar association officials where institutes have been held so far. Boulder County Bar Association officials stated that the institute held there on January 24th was well attended and enthusiastically received. The theme for discussion was some of the more common problems of insurance encountered by the practicing lawyer. Other institutes have been held in Durango, Pueblo and Denver.

Institutes have been planned for Glenwood Springs, Greeley, Colorado Springs and Loveland. The Glenwood Springs institute, according to tentative plans formulated by Edward L. Wood, chairman of the state committee, call for a two-day program on February 20 and 21. The first day will be devoted to a discussion of the proposed water code, and the second day will feature problems of estate and title law. The Weld County association will hold its institute on February 28. This institute, which will be held in the district court room commencing at three o'clock, will treat with several phases of the problem of negligence. After dinner for the bar, to be held in the Odd Fellows' Hall, the evening session will feature short talks by Judge Frederick W. Clark, W. W. Platt and William R. Kelly. Federal income tax problems of a farming community will be the subject of the evening's principal address, which will be delivered by William W. Wardwell of the federal revenue department. No definite date has been fixed for the meetings to be held in Loveland and Colorado Springs, but they are being planned for March. Other sections of the state have indicated that institutes are being formulated for these localities to be held in the early spring. The University of Colorado is, of course, planning an annual Law Day, which will probably be scheduled for April.

The state bar and the Denver association are working on plans for a medico-legal institute to be held in the early spring. According to present suggestions, this institute will deal with such problems as the expert witness, problems of evidence dealing with medical questions, and an explanation of some of the more common types of physical and mental injuries.

A combined institute and fish fry is planned for the latter part of May at Monte Vista. For further details of all of these institutes watch subsequent issues of DICTA.