

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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(34.) SEC. XXXIV. All estates at will or by sufferance may be determined by either party, by three months' notice given to the other party; and when the rent reserved in a lease at will is payable at periods of less than three months, the time of such notice shall be sufficient, if it be equal to the interval between the times of payment; and in all cases of neglect or refusal to pay the rent due on a lease at will, fourteen days' notice to quit, given in writing by the landlord to the tenant, shall be sufficient to determine the lease.

Determination of estates at will, and by sufferance.

(35.) SEC. XXXV. Any alien may acquire and hold lands, or any right thereto or interest therein, by purchase, devise, or descent; and he may convey, mortgage, and devise the same, and if he shall die intestate, the same shall descend to his heirs; and in all cases such lands shall be held, conveyed, mortgaged or devised, or shall descend in like manner, and with like effect, as if such alien were a native citizen of this territory or of the United States.

Aliens may hold, convey and devise land, &c.

(36.) SEC. XXXVI. The title to any lands heretofore conveyed shall not be questioned, nor in any manner affected by reason of the alienage of any person from or through whom such title may have been devised.

Title to lands heretofore conveyed, not to be questioned, &c.

(37.) SEC. XXXVII. A person seized of an estate in remainder or reversion, may maintain a civil action for any injury done to the inheritance, notwithstanding any intervening estate for life or years.

Remainder man. &c., may sue for injuries to inheritance.

(38.) SEC. XXXVIII. One joint tenant, or tenant in common, and his executors or administrators, may maintain a civil action against his co-tenant, for receiving more than his just proportion of the rents or profits of the estate owned by them as joint tenants, or tenants in common.

When joint tenant may maintain action against co-tenant.

CHAPTER 37.

TITLE TO REAL PROPERTY BY DESCENT.

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Chapter 50, Revised Statutes

(1.) SEC. I. When any person shall die, seized of any lands, tenements, or hereditaments, or of any right thereto, or entitled to any interest therein, in fee simple, or for the life of another, not having lawfully devised the same, they shall descend, subject to his debts, in the manner following:

How land, &c., to descend.

1. In equal shares to his children, and to the lawful issue of any deceased child by right of representation; and if there be no child of the intestate living at his death, his estate shall descend to all his other lineal

descendants; and if all the said descendants are in the same degree of kindred to the intestate, they shall share the estate equally; otherwise they shall take according to the right of representation.

2. If he shall leave no issue, his estate shall descend to his widow during her natural life-time, and after her decease to his father; and if he shall leave no issue or widow, his estate shall descend to his father.

3. If he shall leave no issue, nor widow, nor father, his estate shall descend in equal shares to his brothers and sisters, and to the children of any deceased brother or sister, by right of representation: *provided*, that if he shall leave a mother also, she shall take an equal share with his brothers and sisters.

4. If the intestate shall leave no issue, nor widow, nor father; and no brother nor sister living at his death, his estate shall descend to his mother, to the exclusion of the issue, if any, of deceased brothers and sisters.

5. If the intestate shall leave no issue, nor widow, and no father, mother, brother, nor sister, his estate shall descend to his next of kin in equal degree; excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote: *provided, however*,

6. If any person shall die, leaving several children, or leaving one child, and the issue of one or more other children, and any such surviving child shall die under age, and not having been married, all the estate that came to the deceased child by inheritance from such deceased parent, shall descend in equal shares to the other children of the same parent, and to the issue of any such other children who shall have died, by right of representation.

7. If at the death of such child who shall die under age, and not having been married, all the other children of his said parent shall also be dead, and any of them shall have left issue, the estate that came to said child by inheritance from his said parent shall descend to all the issue of other children of the same parent, and if all the said issue are in the same degree of kindred to said child, they shall share the said estate equally; otherwise they shall take according to the right of representation.

8. If the intestate shall leave a widow and no kindred, his estate shall descend to such widow.

9. If the intestate shall leave no widow nor kindred, his estate shall escheat to the people of this territory.

Illegitimate children when to inherit.

(2.) SEC. II. Every illegitimate child shall be considered as an heir of the person who shall, in writing, signed in the presence of a competent witness, have acknowledged himself to be the father of such child, and shall, in all cases, be considered as an heir of his mother, and shall inherit his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he shall not be allowed to claim, as representing his father or mother, any part of the estate of his or her kindred, either lineal or collateral, unless before his death his parents shall have intermarried and had other children; and his father, after such marriage, shall have acknowledged him as aforesaid, or adopted him into his family, in which case such child and all the legitimate children shall be considered as brothers and sisters, and, on the death of either of them intestate and without issue, the other shall inherit his estate, and be theirs, as hereinbefore provided, in like manner as if all the children had been legitimate, saving to the father and mother respectively their rights in the estates of all the said children, as provided hereinbefore, in like manner as if all had been legitimate.

(3.) SEC. III. If any illegitimate child shall die intestate, without lawful issue, his estate shall descend to his mother; or in case of her decease, to her heirs at law. Estate of illegitimate child, to whom to descend.

(4.) SEC. IV. The degrees of kindred shall be computed according to the rules of the civil law; and kindred of the half-blood shall inherit equally with those of the whole blood in the same degree, unless the inheritance come to the intestate by descent, devise, or gift of some one of his ancestors, in which case all those who are not of the blood of such ancestor shall be excluded from such inheritance. Degrees of kindred, how computed; half-blood to inherit.

(5.) SEC. V. Any estate, real or personal, that may have been given by the intestate in his life-time, as an advancement to any child or other lineal descendant, shall be considered as a part of the estate of the intestate, so far as it regards the divisions and distribution thereof among his issue, and shall be taken by such child or other descendant towards his share of the estate of the intestate. Advancement, how to be considered

(6.) SEC. VI. If the amount of such advancement shall exceed the share of the heir so advanced, he shall be excluded from any further portion in the division and distribution of the estate, but he shall not be required to refund any part of such advancement, and if the amount so received shall be less than his share, he shall be entitled to as much more as will give him his full share of the estate of the deceased. When advancement to exclude heir from further portion.

(7.) SEC. VII. If such advancement be made in real estate, the value thereof shall, for the purposes mentioned in the preceding section, be considered a part of the real estate to be divided; and if it be in personal estate, it shall be considered as a part of the personal estate; and if, in either case, it shall exceed the share of real and personal estate respectively, that would have come to the heir so advanced, he shall not refund any part of it, but shall receive so much less out of the other part of the estate as will make his whole share equal to those of the other heirs who are in the same degree with him. Advancement how estimated.

(8.) SEC. VIII. All gifts and grants shall be deemed to have been made in advancement, if they are expressed in the gift or grant to be so made, or if charged in writing by the intestate as an advancement, or acknowledged in writing as such by the child or other descendant. When gifts, &c., to be deemed advancement.

(9.) SEC. IX. If the value of the estate so advanced shall be expressed in the conveyance, or in the charge thereof made by the intestate, or in the acknowledgment of the party receiving it, it shall be considered as of that value in the division and distribution of the estate; otherwise it shall be estimated according to its value when given, as nearly as the same can be ascertained. Value of advancement, how estimated.

(10.) SEC. X. If any child or lineal descendant so advanced shall die before the intestate leaving issue, the advancement shall be taken into consideration in the division and distribution of the estate, and the amount thereof shall be allowed accordingly by the representatives of the heirs so advanced in like manner, as if the advancement had been made directly to them. In case of death of heir, advancement to be allowed by the representatives.

(11.) SEC. XI. Nothing in this chapter shall affect the title of a husband as tenant by the curtesy, nor that of a widow as tenant in dower; nor shall the same affect any limitation of an estate, by deed or will. Construction of this chapter.

(12.) SEC. XII. Inheritance or succession, "by right of representation," takes place when the descendants of any deceased heir take the same share or right in the estate of another person, that their parents would have taken if living. Posthumous children are considered as living at the death of their parents. Inheritance "by right of representation." Posthumous children.