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The second subdivision of Section 1, Chapter 176 of the C. S. A. 1935, covers a situation where an intestate leaves no heirs in either the ascending or descending lines of inheritance. In that case it provides:

> "* * * then to the brothers and sisters, and the descendants of the brothers and sisters who are dead, the descendants, collectively, taking the share of their immediate ancestor, in equal parts."

The foregoing provision does not expressly state that the half blood brothers and sisters shall inherit in such a case. Neither does it say they shall not inherit. It expressly provides that the children (descendants) of brothers and sisters shall inherit, but here, again, it fails to say whether children only of the full bloods shall take, or whether the right of inheritance shall extend also to the children of the half blood brothers and sisters who are dead. So, with nothing but the above section as a guide, only doubt and uncertainty would prevail in a case where an intestate without heirs in the ascending or descending lines of inhertance might leave brothers and sisters, half brothers and half sisters; or where children of deceased half brothers or half sisters might survive the intestate.

Due to some doubt as to just what the rule of the common law might be, and the extent of its application in a given locality, legislatures in some of the states, including Colorado, enacted what, in substance, was our Section 4 of Chapter 176 C. S. A., which in part read:

> *"Children and descendants of children of the half blood shall inherit the same as children and descendants of the whole blood,* but 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. * * *"

If Subdivision 2 of Section 1, Chapter 176, left doubt as to intestate's half brothers' and half sisters' rights, and the rights of the children of such half bloods, it was removed by Section 4. But the rights of these half bloods, and the "children of such half bloods" were reduced in quantity to one half the share of a whole blood, but only in the event a whole blood lived to furnish the yardstick.

When Section 4 says, "Children of the half blood shall inherit *the same as* those of the whole blood," it simply means that the children, whether of the half or whole blood, collectively take the share of their immediate ancestor. The share of that ancestor (if a half blood) is fixed at half a share, if a whole blood still lives.

Whatever influence the common law may have had on descents and distributions in the past, our Supreme Court has said that we must look to these statutes. Wilson v. Wilson, 95 Colo. 159.

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The Colorado Legislature (1941) struck out of Section 4 that part which provided that the half blood's children might inherit, but left the portion which says that collaterals of the half blood shall take only half as much as full bloods if any full bloods live to take. The proponents of the change contended that,

> "There are no such things as children and descendants of children of the half blood."

Certainly a child cannot be related to its mother, or to one standing above it in the ancestral line, or below it in the descending line, by the half blood. But there is nothing to prevent it from being the child of a half blood brother or sister of an intestate who has died and left a fortune.

Bouvier defines "half blood" as

> "A term denoting a degree of relationship which exists between those who have one parent only in common."

"The half blood" is an expression commonly used by commentators to express a relationship between an *intestate* and *his* collateral relatives. It could have no meaning in ascending or descending lines of consanguinity, and is never so used.

"Children of the half sister, children of the half brother, children of the half blood, the half blood's children,"—is what the old statute was trying to say when it was decapitated.

A private in the Marine Corps was killed on July 18, 1918, and had a war risk policy. His old father was beneficiary, but lived only a short time after his son's death. The son never married, and had no relatives in the ascending or descending lines after his father's death. The Act of Congress required distribution to the soldier's heirs as determined by his place of residence (Colorado).

The soldier had half brothers, half sisters, full brothers and full sisters. Some of each class were living, and some were dead. There were living full brothers and sisters, each of whom took two shares. There was at least one half brother living who took one share, or one half measure of the full blood. There were little families of children of deceased half bloods, each of which families, collectively, took one share; and there were families of children of deceased whole bloods, and each such family, collectively, took two shares. This was in strict compliance with Section 4.

Bearing in mind that we must look to statute law for our guide, and considering the form and substance of the section as amended, I believe that children of an intestate's half blood brother or sister cannot take. Whether the half blood can take might be open to an argument. But there is no argument at all as to the amendment having been inadvertently enacted without the slightest intention on the part of the legislature to disinherit any class of persons.

I believe the substance of the old section should be reenacted. It is possible that its meaning might be made a little more obvious.