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A Purposeful Tale

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ABOUT the year 1871 a son was born to a proud father and, as an honor to the child's uncle, the son was given the uncle's name; whereupon the uncle—duly impressed with such honor—conveyed to the child certain Colorado real estate. The realty was then of but little value but, with the faith of a true Coloradoan, the uncle believed it would grow in value and hoped that in time its proceeds would serve to educate the boy. This fond hope was never realized, because a short time after the conveyance, and while the statute of 1868 governing descent and distribution was in force, the child died, leaving surviving him as his heirs, his father, his mother and two young half sisters, children of his mother by a former marriage. A year or so later the mother died, leaving surviving her as her heirs, her husband (the father of the deceased son) and her two minor daughters above mentioned. After the 1876 enactment (see General Laws of 1877) changing the law of descent and providing that on the death of a child without issue the father, if living, should inherit the child's estate, etc., the father of the deceased son probably assumed that he had inherited the whole title to this land, and in 1894 he purported to convey the whole title to another. At that time the father owned by inheritance from his son and from his wife only an undivided interest which he held as tenant in common with the two half sisters, who had inherited from their half brother and from their mother the other interests. This title, so attempted to be conveyed by the father, passed by mesne conveyances to the party holding it in 1907, at which latter time the value of the property, with but little improvements upon it—true to the uncle's faith in Colorado—had increased to several thousand dollars. As the holder of such title then desired to erect an expensive building on the land and for such purpose to borrow money thereon, the title was subjected to closer scrutiny, when it was ascertained that, under the laws of descent in force when the son died, the father had inherited an undivided interest only in the property, and at the time of his conveyance he was tenant in common with the two half sisters and that their interests did not pass by the father's deed. As the title holder and his grantors had held possession and paid taxes on the property for more than seven successive years, under the color of title made in good faith based on the father's deed of 1894, he believed he was fully protected by the 1893 Legislative Acts upon that subject. (See Session Laws, 1893, Chapter 118, Section 6, 7 and 8, pp 328-330).

In the meantime the father had died and the places of residence of the half sisters, if living, were unknown, so action under the Code was brought to quiet the title, permission being given by the Court to make any unknown heirs parties defendant as such. Publication of summons was had and the two half sisters of the deceased son, having secured information of the pendancy of the suit, appeared and answered, claiming their interest in the property. By replication, the plaintiff, to defeat the claim of the sisters, pleaded seven years' possession and payment of taxes for seven successive years under the claim and color of

title made in good faith, and relied upon such Statute of Limitations of 1893 to defeat the sisters' claims.

Further investigation disclosed that the mother had died long prior to the attempted conveyance by the father, that each of her two daughters were at the time of her death under age, that these daughters had each married before they became eighteen years of age and both such marriages had continued uninterrupted up to the time of bringing the suit; that the father as tenant in common did not hold or claim to hold adversely to his co-tenants; that any possession by him was their possession as well; that at the time of the conveyance by the father the half sisters were married and as *feme coverts* were specifically excepted from the operation of the seven year statute of limitations relied upon by plaintiff, and that there had not been a single moment in which the seven year statute could attach or begin to run.

Under this state of facts and view of the law, the two half sisters held title to their interest in the land, unaffected by the bar of the statute, being subject only to make reimbursement to the possessor for taxes paid.

In this particular case settlement was made with the daughters and conveyance from them obtained, and while this narrative of unusual and unexpected conditions found to exist in this title may serve as a caution to examiners of titles against assuming the non-existence of highly improbable facts, the real purpose of this article is to call attention to the fact that this 1893 Limitation Act, with its absurd exceptions of *feme coverts*, remains in force. (See Compiled Laws of 1921, Sections 6423, 6424 and 6425, pages 1672 and 1673)

From the organization of our State, married women have been free from the common law coverture disabilities affecting property rights. That this particular statute of 1893 should except *feme coverts* from its operation seems rather surprising, and more particularly so, as it was the 1893 Legislature which provided for extending to female citizens the voting privilege sought to give them equal rights with male citizens. Probably some facetious member of that law making body—or a member unfriendly to the women's cause—injected this inharmonious exception into our laws, but why pick on married women.

Having in mind the coming session of the Legislature, there should be some hope that the fully emancipated women who shall become members of that body may induce it to repeal this particular exception, recognizing coverture as a disability or limitation upon the rights of women, and thus remove from our statute all intimation of serfdom of women who enter into the married state.

Press and Bar Committee

This Association's committee on Co-operation Between Press and Bar held a meeting during the past month at which a general discussion of its activities for the coming year was held.

It was determined to have some member of the Committee answer criticisms of lawyers or the Bar, which appear in public print by writing a suitable answer to such criticism and sending the same to the publication in question.

The High Cost of Matrimony

"But, lady," a marriage-license clerk explained to a movie-actress applicant, "the law compels me to record all previous marriages before I issue a license."

"Good Lord!" exclaimed her prospective husband. "And I've got a taxi waiting!"—*Saturday Evening Post.*