Inheritance Act 1833

1833 CHAPTER 106 3 and 4 Will 4

An Act for the Amendment of the Law of Inheritance. [29th August 1833]

Modifications etc. (not altering text)

C1 Short title "The Inheritance Act 1833" given by Short Titles Act 1896 (c. 14)

C2 Act amended by Law of Property Amendment Act 1859 (c. 35), **ss. 19**, 20, Law of Property (Amendment) Act 1924 (15 & 16 Geo. 5 c. 5), s. 9, **Sch. 9** and Administration of Estates Act 1925 (c. 23), **s. 51(2)**.

C3 Words of enactment repealed by Statute Law Revision (No. 2) Act 1888 (c. 57) and Statute Law Revision Act 1892 (c. 19)

[1.] Meaning of words in the Act: "Land." "The purchaser." "Descent." "Descendants." "Person last entitled." "Assurance." Number and gender.

The words and expressions herein-after mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say,) the word "land" shall extend to manors, advowsons, messuages, and all other hereditaments, whether corporeal or incorporeal, and whether freehold or copyhold, or of any other tenure, and whether descendible according to the common law, or according to the custom of gavelkind or borough-English, or any other custom, and to money to be laid out in the purchase of land, and to chattels and other personal property transmissible to heirs, and also to any share of the same hereditaments and properties or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right, or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles, and interests, or any of them, shall be in possession, reversion, remainder, or contingency; and the words "the purchaser" shall mean the person who last acquired the land otherwise than by descent, or than by any escheat, partition, or inclosure, by the effect of which the land shall have become part of or descendible in the same manner as other land acquired by descent; and the word "descent" shall mean the title to inherit land by reason of consanguinity, as well where the heir shall be an ancestor or collateral relation, as where he shall be a child or other issue; and the expression "descendants" of any

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ancestor shall extend to all persons who must trace their descent through such ancestor; and the expression "the person last entitled to land" shall extend to the last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the rents and profits thereof; and the word "assurance" shall mean any deed or instrument (other than a will) by which any land shall be conveyed or transferred at law or in equity; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

2 Descent shall always be traced from the purchaser, but the last owner shall be considered to be the purchaser, unless the contrary be proved.

In every case descent shall be traced from the purchaser; and to the intent that the pedigree may never be carried further back than the circumstances of the case and the nature of the title shall require, the person last entitled to the land shall, for the purposes of this Act, be considered to have been the purchaser thereof unless it shall be proved that he inherited the same, in which case the person from whom he inherited the same shall be considered to have been the purchaser unless it shall be proved that he inherited the same; and in like manner the last person from whom the land shall be proved to have been inherited shall in every case be considered to have been the purchaser, unless it shall be proved that he inherited the same.

3 Heir entitled under a will shall take as devisee, and a limitation to the grantor or his heirs shall create an estate by purchase.

When any land shall have been devised, by any testator who shall die after the thirty-first day of December one thousand eight hundred and thirty-three, to the heir or to the person who shall be the heir of such testator, such heir shall be considered to have acquired the land as a devisee, and not by descent; and when any land shall have been limited, by any assurance executed after the said thirty-first day of December one thousand eight hundred and thirty-three, to the person or to the heirs of the person who shall thereby have conveyed the same land, such person shall be considered to have acquired the same as a purchaser by virtue of such assurance, and shall not be considered to be entitled thereto as his former estate or part thereof.

4 Where heirs take by purchase under limitations to the heirs of their ancestor, the land shall descend as if the ancestor had been the purchaser.

When any person shall have acquired any land by purchase under a limitation to the heirs or to the heirs of the body of any of his ancestors, contained in an assurance executed after the said thirty-first day of December one thousand eight hundred and thirty-three, or under a limitation to the heirs or to the heirs of the body of any of his ancestors, or under any limitation having the same effect, contained in a will of any testator who shall depart this life after the said thirty-first day of December one thousand eight hundred and thirty-three, then and in any of such cases such land shall descend and the descent thereof shall be traced as if the ancestor named in such limitation had been the purchaser of such land.

5 Brothers, &c. shall trace descent through their parent.

No brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the parent.

6 Lineal ancestor may be heir in preference to collateral persons claiming through him.

Every lineal ancestor shall be capable of being heir to any of his issue; and in every case where there shall be no issue of the purchaser, his nearest lineal ancestor shall be his heir in preference to any person who would have been entitled to inherit, either by tracing his descent through such lineal ancestor, or in consequence of there being no descendant of such lineal ancestor, so that the father shall be preferred to a brother or sister, and a more remote lineal ancestor to any of his issue, other than a nearer lineal ancestor or his issue.

7 The male line to be preferred.

None of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their descendants shall have failed; and also that no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants shall have failed; and that no female maternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male maternal ancestors and their descendants shall have failed.

8 The mother of more remote male ancestor to be preferred to the mother of the less remote male ancestor.

Where there shall be a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestor, or her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male paternal ancestor, or her descendants; and where there shall be a failure of male maternal ancestors of such person, and their descendants, the mother of his more remote male maternal ancestor, and her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male maternal ancestor, and her descendants.

9 Half blood, if on the part of a male ancestor, to inherit after the whole blood of the same degree; if on the part of a female ancestor, after her.

Any person related to the person from whom the descent is to be traced by the half blood shall be capable of being his heir; and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood, and his issue, where the common ancestor shall be a male, and next after the common ancestor where such common ancestor shall be a female, so that the brother of the half blood on the part of the father shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother.

10 After the death of a person attainted, his descendants may inherit.

When the person from whom the descent of any land is to be traced shall have had any relation who, having been attainted, shall have died before such descent shall have taken place, then such attainder shall not prevent any person from inheriting such land who would have been capable of inheriting the same by tracing his descent through

such relation, if he had not been attainted, unless such land shall have escheated in consequence of such attainder before the first day of January one thousand eight hundred and thirty-four.

11 Act not to extend to any descent before Jan. 1834.

This Act shall not extend to any descent which shall take place on the death of any person who shall die before the said first day of January one thousand eight hundred and thirty-four.

12 Limitations made before 1st Jan. 1834, to the heirs of a person then living, shall take effect as if the Act had not been made.

Where any assurance executed before the said first day of January one thousand eight hundred and thirty-four, or the will of any person who shall die before the same first day of January one thousand eight hundred and thirty-four, shall contain any limitation or gift to the heir or heirs of any person, under which the person or persons answering the description of heir shall be entitled to an estate by purchase, then the person or persons who would have answered such description of heir if this Act had not been made shall become entitled by virtue of such limitation or gift, whether the person named as ancestor shall or shall not be living on or after the said first day of January one thousand eight hundred and thirty-four.

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