

CAP. 195.

CYPRUS

WILLS AND SUCCESSION

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1959

CHAPTER 195.

WILLS AND SUCCESSION.

ARRANGEMENT OF SECTIONS.

PART I.

GENERAL PROVISIONS.

Section	Page
1 Short title ...	3
2 Interpretation ...	3
3 Succession ...	6
4 Mode of succession ...	6
5 Succession to estate how regulated ...	6
6 Kinds of domicile ...	6
7 Domicile of origin of legitimate child ...	6
8 Domicile of origin of illegitimate or posthumous child ...	6
9 Domicile of choice how acquired ...	6
10 Domicile of origin prevails ...	7
11 Domicile of choice retained ...	7
12 Succession to movable property of persons not domiciled in the Colony ...	7
13 One domicile only for succession to movable property ...	7
14 Declaration of death in certain cases ...	7
15 Right of succession of posthumous child ...	9
16 Nationality no bar to succession ...	9
17 Incapacity to succeed in certain cases ...	9
18 Incapacity to succeed how annulled ...	10
19 Incapacity no bar to descendant of person incapacitated to succeed ...	10
20 Limitation of actions to establish incapacity ...	10

PART II.

WILLS.

21 Power of disposition by will ...	10
22 Capacity to make a will ...	11
23 Requisites of a will ...	11
24 Competency of attesting witnesses ...	11
25 Legacy to attesting witnesses, etc., null and void ...	11
26 Creditor attesting will charging estate with debt admitted a witness ...	11
27 Executor admitted a witness ...	12
28 Obliteration, interlineation or other alteration in will ...	12
29 Will made under coercion, etc. ...	12
30 Substitution of legatee ...	12
31 What legacy invalid ...	12
32 Legacy dependent on certain conditions ...	13
33 Legacy to religious corporations ...	13
34 Appointment of guardian by will ...	13
35 Change of domicile does not invalidate will ...	13
36 Will to be construed to speak from death of testator ...	13
37 Revocation of will ...	13
38 When will deemed to be revoked ...	14
39 Revival of revoked will ...	14
40 Gift in contemplation of death ...	14
41 Disposable portion ...	14
42 Complete freedom of disposition in certain cases ...	15
43 Disposals by soldiers, etc. ...	15

PART III.

RIGHTS OF SURVIVING SPOUSE AND SUCCESSION.

44 Share of wife or husband in statutory portion and undisposed portion ...	16
45 Property received under marriage contract ...	16

Section	Page
46 Succession of the kindred. ...	16
47 When deceased is taken to have died without heirs ...	17
48 Degree of kindred, how ascertained ...	17
49 <i>Per stirpes</i> , meaning of ...	17
50 Succession by will no bar to succession by law ...	17
51 Property brought into account in reckoning share of child or other descendant of deceased ...	17

PART IV.

MISCELLANEOUS.

52 Rules of Court ...	18
53 Rights of religious corporations ...	18
54 Treaty obligations reserved ...	18
55 Saving of vakfs. ...	18

FIRST SCHEDULE.

Succession of the Kindred ...	19
-------------------------------	----

SECOND SCHEDULE.

Table of Degrees of Kindred ...	20
---------------------------------	----

A LAW TO AMEND AND CONSOLIDATE THE LAW RELATING
TO WILLS AND TO TESTAMENTARY AND INTESTATE
SUCCESSION.

[1st September, 1946.]

1949 Cap.
220.
5 of 51.
43 of 54.
15 of 55.

PART I.

GENERAL PROVISIONS.

1. This Law may be cited as the Wills and Succession Law. Short title.

2. In this Law—

“ administrator ” means a person to whom a Court has granted letters of administration or letters of administration with will annexed ; Interpreta-
tion.

“ codicil ” means an instrument in writing made in relation to a will explaining, adding to, altering or revoking in whole or in part, its disposition, and it shall be considered as forming an amending or additional part of the will ;

“ coercion ” means the committing or threatening to commit any act forbidden by the Criminal Code or the unlawful detaining or threatening to detain any property, to the prejudice of any person whatever with the intention of causing any person to do any act against his will, and it is immaterial whether the Criminal Code is or is not in force in the place where the coercion is employed ; Cap. 154.

“ Court ” means the District Court of the district in which the deceased had his ordinary or last place of residence in the Colony ;

“disposable portion” means that part of the movable property and immovable property of a person which he can dispose of by will ;

“estate” means the movable property and immovable property of which a person dies possessed ;

“executor” means a person to whom the execution of the last will of a deceased person is confided by the appointment of the testator ;

“fraud” includes any of the following acts committed by a person or with his connivance or by his agent, with intent to deceive another person or his agent or to induce him to do any act, that is to say—

- (a) the suggestion, as to a fact, of that which is not true by one who does not believe it to be true,
- (b) the active concealment of a fact by one having knowledge or belief of the fact,
- (c) a promise made without any intention of performing it,
- (d) any other act fitted to deceive ;

“heir” means a person who by operation of law succeeds to an estate ;

“immovable property” includes—

- (a) land,
- (b) buildings and other erections, structures or fixtures affixed to any land or to any building or other erection or structure,
- (c) trees, vines and any other thing whatsoever planted or growing upon any land and any produce thereof before severance,
- (d) springs, wells, water and water rights whether held together with, or independently of, any land,
- (e) privileges, liberties, easements and any other rights and advantages whatsoever appertaining or reputed to appertain to any land, or to any building or other erection or structure,
- (f) an undivided share in any property hereinbefore set out ;

“incapable person” means any person not under disability but who is certified by two duly qualified medical practitioners to be incapable from infirmity of mind due to disease or old age of managing his own affairs ;

“ infant ” means every person who has not completed eighteen years of age ;

“ legacy ” means a gift by will of movable property or immovable property ;

“ legatee ” means a person to whom a legacy has been left ;

“ letters of administration ” means the written authority given to an administrator by a Court to administer the estate of a person who has died intestate or to administer an estate in which a person under disability or an incapable person is interested ;

“ letters of administration with will annexed ” means the written authority given to an administrator by a Court to administer the estate of a person who has left a will without having appointed an executor or has appointed an executor who has renounced probate or become incapable of acting ;

“ mental patient ” means any person adjudged to be a mental patient under the provisions of the Mental Patients Law; Cap. 252.

“ movable property ” means all property of every description which is not immovable property ;

“ person under disability ” means every person who is an infant or a mental patient or is prohibited by a Court from the management of his affairs or is absent from the Colony ;

“ probate ” means an instrument in writing issuing out of the Court declaring that the will of a deceased person has been duly proved and that administration of his estate has been granted to an executor named therein ;

“ religious corporation ” includes any religious establishment or religious institution belonging to any denomination and any throne, church, chapel, monastery, mosque, tekyé, shrine or synagogue ;

“ signature ” and “ to sign ” and their cognate expressions shall, in the case of an illiterate person, include his mark or seal ;

“ statutory portion ” means that part of the movable property and immovable property of a person which he cannot dispose of by will ;

“undisposed portion” means the whole or the part, as the case may be, of the disposable portion which has not been disposed of by will ;

“undue influence” means the exercise by a person of influence to dominate the will of another person where the relations subsisting between them are such that one of them is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other ;

“will” means the legal declaration in writing of the intentions of a testator with respect to the disposal of his movable property or immovable property after his death, and includes codicil.

Succession.

3. On the death of a person his estate shall pass as a whole to one or several other persons.

Mode of succession.

4. Succession to an estate may be either by will or by the operation of law or by will and by the operation of law.

Succession to estate how regulated.

5. This law shall regulate—

- (a) the succession to the estate of all persons domiciled in the Colony ;
- (b) the succession to immovable property of all persons not domiciled in the Colony.

Kinds of domicile.

6. Every person has at any given time either—

- (a) the domicile received by him at his birth (which domicile is in this Part called “the domicile of origin”), or
- (b) a domicile (not being the same as the domicile of origin) acquired or retained by him by his own act (which domicile is in this Part called “the domicile of choice”).

Domicile of origin of legitimate child.

7. In the case of a legitimate child born during his father's lifetime, the domicile of origin of the child is the domicile of his father at the time of the child's birth.

Domicile of origin of illegitimate or posthumous child.

8. In the case of an illegitimate or a posthumous child, the domicile of origin of the child is the domicile of his mother at the time of the child's birth.

Domicile of choice how acquired.

9. A person acquires a domicile of choice by establishing his home at any place in the Colony with the intention of

permanent or indefinite residence therein, but not otherwise :

Provided that no person shall be held to have acquired a domicile of choice in the Colony by reason only of his residing there in Her Majesty's naval, military, air or civil service.

10. The domicile of origin prevails and is retained until a domicile of choice is in fact acquired. Domicile of origin prevails.

11. A domicile of choice is retained until it is abandoned, whereupon either— Domicile of choice retained.

- (a) a new domicile of choice is acquired, or
- (b) the domicile of origin is resumed.

12. Succession to movable property of persons dying in the Colony but not domiciled there shall be regulated by the law of the country in which they had their domicile at the time of their decease. Succession to movable property of persons not domiciled in the Colony.

13. No person can for the purpose of succession to movable property have more than one domicile. One domicile only for succession to movable property.

14. (1) A person who has disappeared or is missing may, subject to the provisions of this section, be declared dead by an order of a Court. Declaration of death in certain cases.

(2) (a) The declaration of death may be made if for ten years no news has been received that the person who has disappeared is alive:

Provided that no such declaration shall be made before the close of the year in which the person who has disappeared would have completed his twenty-eighth year of age:

Provided further that in the case of a person who has disappeared and who would have completed his seventieth year of age such declaration may be made if for five years no news has been received that he is alive.

(b) The periods of ten and five years, respectively, in this subsection mentioned, will commence to run from the close of the last year in which the person who has disappeared was reported to be still alive.

(3) (a) A person, who as a member of an armed force has

taken part in a war, has been missed during the war and has not since been heard of, may be declared dead if three years have elapsed since the conclusion of peace. If no conclusion of peace has taken place, the three years in this section mentioned will commence to run from the close of the year in which the war was brought to an end.

(b) For the purposes of this subsection a person who accompanies an armed force in the capacity of official or servant or volunteer or muleteer is deemed to be a member of an armed force.

(4) (a) If any ship or aircraft shall have been lost during a sea or air passage, any person who was on board at the time and who has been missing since the loss of the ship or aircraft may be declared dead if one year has elapsed since the loss.

(b) The loss of the ship or aircraft shall be presumed if such ship or aircraft has not arrived at the place of destination or, having no fixed destination, has not returned within three years since the beginning of the sea or air passage, as the case may be.

(5) If a person has been in peril of his life in circumstances other than those specified in subsections (3) and (4) and has never thereafter been reported alive, he may be declared dead if three years have elapsed since the occurrence whereby the peril of life arose.

(6) (a) The declaration of death establishes the rebuttable presumption that the person who has disappeared or is missing died at the date fixed in the order for the declaration of death and, unless the ascertained facts indicate some other date, death is presumed to have occurred—

- (i) in the cases provided for by subsection (2), at the date at which the declaration of death could first be lawfully made;
- (ii) in the cases provided for by subsection (3), at the date at which peace was concluded or at the close of the year in which the war was brought to an end;
- (iii) in the cases provided for by subsection (4), at the date at which the ship or aircraft was lost or is presumed to have been lost;
- (iv) in the cases provided for by subsection (5), at the date at which the occurrence took place.

(b) If the time of death is fixed only as a certain day, death is deemed to have taken place at the end of that day.

(7) If several persons have perished in a common peril, it is a rebuttable presumption that they have all perished simultaneously.

(8) In cases of dispute as to which of two or more persons deceased died first, the party asserting the priority of the death of one of them must give proof of his assertion. In the absence of proof, it shall be presumed that they died simultaneously.

(9) An order for declaration of death may be made only by a Court or Tribunal within the jurisdiction of which the person who has disappeared or is missing had his last known place of residence and only on the application of the Attorney-General or a person who deduces rights from the death of the person concerned.

15. A posthumous child born alive shall have the same right of succession as if he had been born before the death of the person from whom the succession is derived:

Right of succession of posthumous child.

Provided that it is established that such child was *en ventre sa mere* at the time of the death of the person from whom the succession is derived.

16. No person shall be incapable of succeeding to an estate by reason of his being of a different nationality from that of the person from whom the succession is derived.

Nationality no bar to succession.

17. No person shall be capable of succeeding to an estate who—

Incapacity to succeed in certain cases.

(a) has been convicted of wilfully and unlawfully causing the death, or of wilfully and unlawfully attempting to cause the death of the person to whose estate he would otherwise have succeeded; or

(b) has been convicted of the murder, or attempted murder of the child, parent, husband or wife of the person to whose estate he would otherwise have succeeded; or

(c) has by coercion, fraud or undue influence caused the person to whose estate he would otherwise have

succeeded to make a will or to revoke a will already made ; or

- (d) has prevented the person to whose estate he would otherwise have succeeded from making, altering or revoking a will already made by him ; or
- (e) has submitted to the person to whose estate he would otherwise have succeeded a supposititious will ; or
- (f) has wrongfully altered or destroyed a will already made by the person to whose estate he would otherwise have succeeded ; or
- (g) has aided or abetted any person in the commission of any of the above acts.

Incapacity
to succeed,
how
annulled.

18. The incapacity to succeed to an estate in section 17 of this Law mentioned, shall be annulled and removed if the deceased has voluntarily and in express terms pardoned the otherwise incapacitated person by a declaration in writing made and signed before, and witnessed by, a Commissioner, or by provision made in his will therefor.

Incapacity
no bar to
descendant
of person in-
capacitated
to succeed.

19. The descendants of an incapacitated person, who but for his incapacity would be entitled to succeed by operation of law to an estate, shall be entitled to succeed to the estate in the same manner as if the incapacitated person had died in the lifetime of the intestate ; but the person incapacitated upon whose descendants the estate devolves shall be debarred from any subsequent right of enjoyment thereof accorded to him by law.

Limitation
of actions to
establish
incapacity.

20. All actions where any estate is claimed on the ground of the incapacity of a person to succeed thereto shall be commenced before the lapse of three years from the date of the death of the person to whose estate he would otherwise have succeeded.

PART II.

WILLS.

Power of
disposition
by will.

21. It shall be lawful for every person to dispose of by his will, executed in manner in section 23 of this Law provided, the whole or any part of the disposable portion.

22. No will made by any person who is not of sound mind or has not completed the age of eighteen years, shall be valid.

Capacity to make a will.

23. No will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned, that is to say—

Requisites of a will.

- (a) it shall be signed at the foot or end thereof by the testator, or by some other person on his behalf, in his presence and by his direction; and
- (b) such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and
- (c) such witnesses shall attest and shall subscribe the will in the presence of the testator and in the presence of each other, but no form of attestation shall be necessary; and
- (d) if the will consists of more than one sheet of paper, each sheet shall be signed or initialled by or on behalf of the testator and the witnesses.

24. The witnesses to a will shall be persons who—

Competency of attesting witnesses.

- (a) have completed the age of eighteen years; and
- (b) are of sound mind; and
- (c) are able to sign their names.

25. If any person shall attest the execution of any will to whom or to whose wife, husband or child any beneficial legacy (other than and except charges and directions for the payment of any debt), shall be thereby given or made, such legacy shall, so far only as concerns such person attesting the execution of such will, or the wife, husband or child of such person, or any person claiming under such person or wife or husband or child, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution of such will or to prove the validity or invalidity thereof notwithstanding such legacy mentioned in such will.

Legacy to attesting witnesses, etc., null and void.

26. In case by any will any estate shall be charged with any debt, and any creditor or the wife, husband or child of any creditor whose debt is so charged shall attest the execution of such will, such creditor notwithstanding such charge shall be admitted a witness to prove the execution of such will or to prove the validity or invalidity thereof.

Creditor attesting will charging estate with debt admitted a witness.

Executor
admitted a
witness.

27. No person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will or to prove the validity or invalidity thereof.

Obliteration,
interlinea-
tion or
other
alteration
in will.

28. No obliteration, interlineation or other alteration made in any will after the execution thereof shall be valid or have any effect, except so far as the words or effect of the will before such alteration shall not be apparent, unless such alteration be executed in like manner as in section 23 of this Law is required for the execution of the will, but the will, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or some other part of the will opposite or near to such alteration or at the foot or end of or opposite to a memorandum referring to such alteration and written at the end or some other part of the will.

Will made
under
coercion, etc.

29. A will, or any part of a will, the making of which has been caused by coercion, fraud or by the exercise of undue influence upon the testator, shall be null and void.

Substitution
of legatee.

30. A testator may make provision in his will for the substitution of any legatee for any other legatee mentioned therein.

That legacy
invalid.

31. No legacy shall be valid—

(a) if made to a person who is not in existence at the time of the death of the testator :

Provided that a legacy to a posthumous child of the testator shall be valid :

Provided further that where any person being a child or other issue of the testator to whom a legacy shall be left shall die in the lifetime of the testator leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such legacy shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will ;

(b) if it does not express a definite intention.

32. Where a legacy is dependent upon an impossible, illegal or immoral condition, such condition shall be void but the legacy shall be valid.

Legacy dependent on certain conditions.

33. (1) No person having any relation within the third degree of kindred shall have power to bequeath a legacy to any religious corporation, save by a will executed at least three months before his death :

Legacy to religious corporations.

Provided that no such legacy shall be valid if it relates to any land situate outside the limits of the areas specified, for the purposes of this section, on the survey maps signed by the Director of Lands and Surveys and deposited in the District Lands Office before the coming into operation of this Law.

(2) Where the testator is a Moslem a legacy under subsection (1) shall be deemed to be a valid dedication and shall be governed by the law in force for the time being relating to valid deeds of dedication.

34. A father or mother may by will appoint a guardian for his or her child during the time that such child is a person under disability or an incapable person :

Appointment of guardian by will.

Provided that a Court may for good reason at its discretion remove such guardian and appoint another guardian in his stead.

35. No will shall be held to have become invalid nor shall the construction thereof be altered by reason of any subsequent change of domicile of the person making the same.

Change of domicile does not invalidate will.

36. Every will shall be construed, with reference to the estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will.

Will to be construed to speak from death of testator.

37. A will may be revoked—

Revocation of will.

- (a) by a subsequent will expressly revoking the former one ;
- (b) by a subsequent will inconsistent with the provisions of the former one, but so far only as the provisions of the two wills are inconsistent ; or
- (c) by burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction, with the intention of revoking it.

When will
deemed to
be revoked.

38. A will shall be deemed to be revoked—

- (a) by the marriage of the testator after the execution of the will ;
- (b) by the birth of a child to the testator after the execution of the will, if at the time of the making of the will the testator had no children:

Provided that such marriage or birth shall not be deemed to revoke a will if it appears upon the face of the will that the will was made in contemplation of such marriage or birth.

Revival of
revoked will.

39. No will or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof in manner in section 23 of this Law provided and showing an intention to revive the same : and when any will which shall be partly revoked and afterwards wholly revoked shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown.

Gift in
contem-
plation of
death.

40. (1) Any person who is of sound mind and has completed the age of eighteen years may dispose of any movable property by a gift made in contemplation of death if made in the presence of at least two witnesses who have completed the age of eighteen years and are of sound mind.

(2) A gift made in contemplation of death may be resumed at any time by the giver and shall not take effect if—

- (a) the giver recovers from the illness during which it was made ; or
- (b) the giver survives the person to whom it was made.

(3) Any gift made in contemplation of death shall be treated upon the administration of an estate exactly in the same way as if it were a specific legacy.

(4) A gift shall be deemed to be made in contemplation of death where a person who is ill and expects to die shortly of his illness delivers to another person the possession of any of his movable property to keep as a gift in case the giver shall die of that illness.

Disposable
portion.

41. (1) Save as in section 42 of this Law provided, where a person dies leaving—

- (a) a spouse and child, or a spouse and a descendant of a child, or no spouse but a child or a descendant

of a child, the disposable portion shall not exceed one-third of the net value of his estate ;

(b) a spouse or a father or a mother, but no child nor descendant thereof, the disposable portion shall not exceed one-half of the net value of his estate ;

(c) neither spouse, nor child nor descendant of a child, nor a father, nor a mother, the disposable portion shall be the whole of his estate.

(2) Where a person has purported to dispose by will of a part of his estate in excess of the disposable portion, such disposition shall be reduced and abated proportionally so as to be limited to the disposable portion.

42. Any person who was born or whose father was born in the United Kingdom or any of the self-governing Dominions may, whether domiciled in the Colony or not, dispose of the whole of his movable property and immovable property by will.

Complete freedom of disposition in certain cases.

43. (1) Notwithstanding anything in this Law contained, any declaration made by any person with respect to the disposal of his property after his death which would have been valid and effective under the English law shall be valid and effective as a will under and for the purposes of this Law.

Disposals by soldiers, etc.

(2) For the purposes of this section, "English law" means—

(a) section 11 of the Wills Act, 1837 (7 Will. 4 and 1 Vict. c. 26) ; and

(b) the Wills (Soldiers and Sailors) Act, 1918 (7 and 8 Geo. 5, c. 58),

and shall include any Act amending or substituted for the same :

Provided that section 3 of the Wills (Soldiers and Sailors) Act, 1918, shall be deemed to apply also to testamentary dispositions of immovable property in Cyprus.

PART III.

RIGHTS OF SURVIVING SPOUSE AND SUCCESSION

44. Where a person dies leaving a wife or husband, such wife or husband shall, after the debts and liabilities of the estate have been discharged, be entitled to a share in the

Share of wife or husband in statutory portion and undisposed portion.

statutory portion, and in the undisposed portion if any, as follows, that is to say—

If the deceased has left besides such wife or husband—

- (a) any child or descendant thereof, such share shall be the one-sixth of the statutory portion and of the undisposed portion, but if there be more children than five (whether they be living or represented by descendants) then it shall be a share equal to the share of one of such children ;
- (b) no child nor descendant thereof, but any ancestor or descendant thereof within the third degree of kindred to the deceased, such share shall be the one-half of the statutory portion and of the undisposed portion ;
- (c) no child nor descendant thereof, nor any ancestor or descendant thereof within the third degree of kindred to the deceased, but any ancestor or descendant thereof of the fourth degree of kindred to the deceased, such share shall be the three-fourths of the statutory portion and of the undisposed portion ;
- (d) no child nor descendant thereof nor any ancestor or descendant thereof within the fourth degree of kindred to the deceased, such share shall be the whole statutory portion and the whole undisposed portion :

Provided that where the deceased has left more than one lawful wife, the share given to the wife under the provisions of this section shall be divided equally between such wives.

Property
received
under
marriage
contract.

45. A wife or husband who becomes entitled to a share in the statutory portion or in the undisposed portion, shall not bring into account in reckoning such share any movable property or immovable property received from the deceased by virtue of a marriage contract.

Succession of
the kindred.

46. Subject to the provisions of this Law as to the incapacity of persons to succeed to an estate and subject to the share of a surviving wife or husband of the deceased, the class of person or persons who on the death of the deceased shall become entitled to the statutory portion, and the undisposed portion if any, and the shares in which they shall be so entitled, if more than one, shall be as set

out in the several columns of the First Schedule to this Law : First Schedule.

Provided that persons of one class shall exclude persons of a subsequent class.

47. (1) If there is no person of kin to the deceased within the sixth degree of kindred living at his death he shall be taken to have died without heirs, and no one of his kin beyond the sixth degree of kindred shall on his death become in any manner entitled to the statutory portion, and to the undisposed portion if any. When deceased is taken to have died without heirs.

(2) On failure of heirs as in subsection (1) provided, and subject to the share of a surviving wife or husband, if any, the statutory portion and the undisposed portion shall become the property of the Government.

48. (1) The degree of kindred between any two persons shall be ascertained as follows, that is to say, when the two persons are in the direct line of descent the one from the other, by reckoning the number of generations from either of them to the other, each generation constituting a degree ; and where they are not in the direct line of descent the one from the other, by reckoning the number of generations from either of them up to their common ancestor and from the common ancestor downwards to the other of them, each generation constituting a degree. Degree of kindred, how ascertained.

(2) The degrees of kindred down to the sixth degree are shown in the table set out in the Second Schedule. Second Schedule.

49. Where in this Law it is provided that any class of persons shall become entitled to the statutory portion and the undisposed portion *per stirpes*, it means that the child of any person of the defined class who shall have died in the lifetime of the deceased and who, if he had survived the deceased, would have become entitled on the death of the deceased to a share in the statutory portion, and the undisposed portion if any, shall become entitled only to the share which the parent would have taken if he had survived the deceased. Per stirpes, meaning of.

50. Any person who, by virtue of the will of the deceased, becomes entitled to succeed to any part of the disposable portion, shall be in no way debarred from succeeding to any part of the statutory portion, and of the undisposed portion if any, should he be so entitled. Succession by will no bar to succession by law.

CAP. 195.] WILLS AND SUCCESSION.

Property brought into account in reckoning share of child or other descendant of deceased.

51. Any child or other descendant of the deceased who becomes entitled to succeed to the statutory portion, and to the undisposed portion if any, shall in reckoning his share bring into account all movable property and immovable property that he has at any time received from the deceased—

- (a) by way of advancement ; or
- (b) under a marriage contract ; or
- (c) as dower ; or
- (d) by way of gift made in contemplation of death :

Provided that no such movable property or immovable property shall be brought into account if the deceased has left a will and has made therein specific provision that such movable property or immovable property shall not be brought into account.

PART IV.

MISCELLANEOUS.

Rules of Court.

52. The Governor may, with the advice and assistance of the Chief Justice, make Rules of Court for any matter or proceeding had or taken before any Court under the provisions of this Law :

Provided that, until such Rules are made, such matters and proceedings shall be regulated by the Rules of Court relating to Wills and Successions (including any Rules prescribing the fees payable in respect of such matters and proceedings) in force on the date of the coming into operation of this Law.

Rights of religious corporations.

53. This Law shall not affect any established rights of any religious corporation.

Treaty obligations reserved.

54. This Law shall not be applied in any case in which the application thereof shall appear to be inconsistent with any obligation imposed by treaty.

Saving of Vakfs.

55. Nothing in this Law contained shall apply to any immovable property made and held as Vakf under any Law relating to Vakfs and in force for the time being.

FIRST SCHEDULE.

(Section 46.)

SUCCESSION OF THE KINDRED.

Class.	Persons entitled.	Shares.
1. First Class ...	1. (a) Legitimate children of the deceased living at his death ; and (b) descendants, living at the death of the deceased, of any of the deceased's legitimate children who died in his lifetime.	1. (a) In equal shares ; (b) in equal shares <i>per stirpes</i> .
2. Second Class ...	2. (a) Father, mother of the deceased living at his death (or if not living at his death, the nearest ancestor living at his death) and brothers and sisters of the full and half blood of the deceased living at his death ; and (b) descendants, living at the death of the deceased, of any of the deceased's brothers or sisters who died in his lifetime.	2. (a) All in equal shares except that brothers and sisters of the half blood take half the share of a brother or sister of the full blood ; (b) in equal shares <i>per stirpes</i> .
3. Third Class ...	3. The ancestors of the deceased nearest in degree of kindred living at his death.	3. If there are ancestors of equal degree of kindred on both the father's side and on the mother's side, the ancestors on each side shall take half of the statutory portion, and of the undisposed portion if any, and, if there are more than one of them on either side, in equal shares.
4. Fourth Class ...	4. The nearest kin of the deceased living at the death within the sixth degree of kindred, the nearer degree excluding those more remote.	4. In equal shares.

SECOND SCHEDULE.

(Section 48 (2).)

TABLE OF DEGREES OF KINDRED.

