

## ACT No. XXI OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th July 1870).

An Act to regulate the Wills of Hindús, Jainas, Sikhs and Buddhists in the Lower Provinces of Bengal and in the towns of Madras and Bombay.

Preamble.

WHEREAS it is expedient to provide rules for the execution, attestation, revocation, revival, interpretation and probate of the wills of Hindús, Jainas, Sikhs and Buddhists in the territories subject to the Lieutenant Governor of Bengal and in the towns of Madras and Bombay; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Hindú Wills' Act, 1870."

Certain portions of Succession Act extended to wills of Hindús, Jainas, Sikhs and Buddhists.

2. The following portions of the Indian Succession Act, 1865, namely,—

sections forty-six, forty-eight, forty-nine, fifty, fifty-one, fifty-five and fifty-seven to seventy-seven (both inclusive),

sections eighty-two, eighty-three, eighty-five, eighty-eight to one hundred and three (both inclusive),

sections one hundred and six to one hundred and seventy-seven (both inclusive),

sections one hundred and seventy-nine to one hundred and eighty-nine (both inclusive),

sections one hundred and ninety-one to one hundred and ninety-nine (both inclusive),

so much of Parts XXX and XXXI as relates to grants of probate and letters of administration with the will annexed, and

Parts

and section 187  
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Parts XXXIII to XL (both inclusive), so far as they relate to an executor and an administrator with the will annexed.

shall, notwithstanding anything contained in section three hundred and thirty-one of the said Act, apply—

(a) to all wills and codicils made by any Hindú, Jaina, Sikh or Buddhist, on or after the first day of September one thousand eight hundred and seventy, within the said territories or the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Madras and Bombay; and

Extent of Act.

(b) to all such wills and codicils made outside those territories and limits, so far as relates to immoveable property situate within those territories or limits:

3. Provided that marriage shall not revoke any such will or codicil:

2<sup>o</sup>

And that nothing herein contained shall authorise a testator to bequeath property which he could not have alienated *inter vivos*, or to deprive any persons of any right of maintenance of which, but for section two of this Act, he could not deprive them by will:

And that nothing herein contained shall vest in the executor or administrator with the will annexed of a deceased person any property which such person could not have alienated *inter vivos*:

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And that nothing herein contained shall affect any law of adoption or intestate succession:

4<sup>o</sup>

And that nothing herein contained shall authorise any Hindú, Jaina, Sikh or Buddhist to create in property any interest which he could not have created before the first day of September one thousand eight hundred and seventy.

5<sup>o</sup>

4. On and from that day, section two of Bengal Regulation V of 1799 shall be repealed so far as relates to the executors of persons who are not Muhammadans, but are subject to the jurisdiction of a District Court in the territories subject to the Lieutenant Governor of Bengal.

Partial repeal of Bengal Regulation V of 1799, section 2.

5. Nothing

Saving of  
rights of Ad-  
ministrators  
General.

5. Nothing contained in this Act shall affect the rights, duties and privileges of the Administrators General of Bengal, Madras and Bombay, respectively.

Interpreta-  
tion-clause.

6. In this Act and in the said sections and Parts of the Indian Succession Act, all words defined in section three of the same Act shall, unless there be something repugnant in the subject or context, be deemed to have the same meaning as the said section three has attached to such words respectively :

And in applying sections sixty-two, sixty-three, ninety-two, ninety-six, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three and one hundred and eighty-two of the said Succession Act, to wills and codicils made under this Act, the words "son," "sons," "child" and "children" shall be deemed to include an adopted child; and the word "grand-children" shall be deemed to include the children, whether adopted or natural-born, of a child whether adopted or natural-born; and the expression "daughter-in-law" shall be deemed to include the wife of an adopted son :

And in making grants under this Act, of letters of administration with the will annexed or with a copy of the will annexed, section one hundred and ninety-five of the said Succession Act shall be construed as if the words "and in case the Hindú Wills' Act had not been passed" were added thereto; and section one hundred and ninety-eight of the said Succession Act shall be construed as if, after the word "intestate," the words "and the Hindú Wills' Act had not been passed" were inserted; and sections two hundred and thirty and two hundred and thirty-one of the said Succession Act shall be construed as if the words "if the Hindú Wills' Act had not been passed" were added thereto, respectively.

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