

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Friday, the 11th Day of November 1977

WILLS AMENDMENT BILL

Proposed Amendments

Hon. Mr THOMSON, in committee, to move the following amendments:

Clause 2 (2) (b): To omit from line 11 on page 3 the word "anticipation", and substitute the word "contemplation".

Clause 2 (2): To insert, after paragraph (b), the following paragraph:

- (bb) Any beneficial devise, legacy, estate, gift, appointment, direction, charge, trust, or provision in any such will of any person if, after the relevant decree or order or legislative enactment for the divorce of the person or the nullity of the marriage of the person, he has, by a codicil, expressly shown an intention that the devise, legacy, estate, gift, appointment, direction, charge, trust, or provision shall have effect notwithstanding this section or notwithstanding the making of the decree, order, or legislative enactment.

Clause 2, subclause (3): To omit subclause (3) as substituted by the Statutes Revision Committee, and substitute the following subsection:

- (3) For the purposes of this section—
- (a) Where a will or any part thereof is, by any codicil, confirmed or ratified or in any manner revived, it shall be deemed to have been made at the time when it was first made, and not at the time when it was confirmed or ratified or revived:
- (b) Where a will or any part thereof is re-executed, it shall be deemed to have been made at the time when it was re-executed, and not at the time when it was first made.
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EXPLANATORY NOTE

Clause 2 (2) (b): The amendment substitutes the word "contemplation" for the word "anticipation" so as to bring the wording into line with section 13 of the Wills Amendment Act 1955, which relates to wills expressed to be made in contemplation of marriage.

Clause 2 (2): Paragraph (b), as amended, provides that an intention to exclude subclause (1A) may be expressed in a will that would otherwise be affected by a subsequent divorce. The amendment inserts a new paragraph (bb) providing that such an intention in relation to the will may be expressed in a codicil made after the divorce.

Clause 2, subclause (3): Section 22 of the Wills Act 1837 provides in effect that a revoked will may be revived by re-execution or by a codicil showing an intention to revive the same. This line of distinction is now proposed for the purposes of clause 2. The revised subclause (3) provides that, for the purposes of clause 2—

- (a) Where a will or any part thereof is, by any codicil, confirmed or ratified or in any manner revived, it shall be deemed to have been made at the time when it was first made, and not at the time when it was confirmed or ratified or revived;
- (b) Where a will or any part thereof is re-executed, it shall be deemed to have been made at the time when it was re-executed, and not at the time when it was first made.