

At all; with some the nearest Relations only are allowed of, with others the more remote ones are not Excluded. Succession being so peculiarly Regulated in different Nations, I shall for clearing up this useful and Extensive Matter, set forth the Rules of Succession in Holland, compare with the Mosaiical, Civil, and Medial laws, and the Modern laws of England and other Nations.

Succession by the Law of Holland, is 1<sup>o</sup> Either provisional or Legal. Provisional Succession is that which transmits the estate of one who dies, to the person or persons whom the Deceased has called to the Succession, whether Related to him or Not, by an express Deed or by his Will; or the Succession succeeds to it by the express Will of Man. 2<sup>o</sup> The Succession is founded in the order of affinity, as justifiable in several Cases, as 1<sup>o</sup> where a Man has no Relations at all, or such such as have Rendered themselves unworthy of succeeding him. 2<sup>o</sup> one who perhaps has a small and inconsiderable estate, which he owes to the liberality of some Benefactor, who supposes to be of great want and neediness, might justly leave his estate or a part of it to his benefactor, to the prejudice of his collateral relations, who perhaps are Related to him only at a great Distance, and have a plentiful estate of their own. 3<sup>o</sup> If it fall that persons whose presumptive heirs are aliens or foreigners, in case a will succeeds, may dispose of their estates to others, or that Bastards who have no heir at Law, should bestow their fortunes on them, they most effectually which power of disposing in view of death, is more especially favourable in Estates which persons may have acquired by their own labour and Industry, than in those which are acquired by conquest or purchase.

Legal Succession is that which transmits the estate of one who dies, without having disposed of it in the event of his death, to the person or persons whom the Law calls to the Succession by virtue of their proximity of blood according to his last Will, founded on the most Natural Conjecture that can be made at his apparent Intention and desire. Legal Succession passeth over Estates to a loved according to the lines and Degrees of Consanguinity: for no person succeeds by affinity, or Alliance by Marriage have the manner of Right to Inherit. 3<sup>o</sup> L. C. Commun. 2<sup>o</sup> Success. The in Marriage the tie of affinity is no less Considered, than that of proximity of blood. Vid. supra pag. 155. This Succession is either by the Head, or by the Stocks. Succession by the Head, is when the estate

estate is divided into Equal portions, according to the Number of the persons who succeed, as the Intestates of a father among his Daughters. Succession by the Stocks, is when by a fiction of Law, persons in a Remoter degree come by Representation or personating in to the place of one in a nearer degree to the Deceased, and divide that share among themselves which he would have Received had he been living. As if one of four Daughters had died before the father, and left Children behind her, those Children come in place of their Mother, and get her part, or an equal share with their Mother's three surviving Sisters, viz. a fourth among them all: for they Represent their Mother, that is, take her place and enter into her Right.

By the Civil Law, if one of two or three testaments called together, then to the same Succession, or one of his Legatees of the same thing jointly called to the Legacy that is common to them, Renounce or cannot enjoy the Succession or Legacy, his Vacant share or portion will be long, and belong to the other. 2<sup>o</sup> If one acquir. Vel omitt. Hered. § 3. Just. de Legat. l. in. § 11. P. de Exec. Coll. Which right of the heir or Legatee who required the portion of the other is called Accretion or Accretion, who required the portion of the person who does not succeed, Accretion to him who succeeds alone; so that he has the whole. This right of Accretion is the same as the right of Survivorship in the Common Law of England, with this Difference; that Survivorship at Common Law takes place not only in Successions and inheritances, but likewise in grants and other Conveyances; whereas the right of Accretion by the Civil Law takes place only in Successions of Estates at Law and all testaments, Intestates, Dispositions, but not in Contracts and deeds of Gift. Per. in Cod. lib. 6. Tit. 51. n. 9. The right of Accretion takes place with us in the legal Succession of the heirs of blood, where it is only the Concurrence of several heirs together that divides the Succession among them, and therefore as any one of them ceases to take his share or portion, it remains in the Intestates, and is acquired to the others by virtue of the right they have to the whole, which will remain entire to one alone, if there be no more heirs than one. But if one disposes his lands or heritage to two persons and their heirs, each of them gets an equal half, and the share of him who dies first belongs to his own heir, Craig. Feud. lib. 2. Tit. 3. § 10. And where lands are disposed by a father to his two sons and the heirs of their bodies, and one of these brothers die without heirs of his body, his half should return or fall, Newark. Insurors to Divil. Doubts. Tit. Priars again, one having assigned 4000 Merks of goods in a lease little bond to his eldest son, and the other 2000 Merks to his second