

Judgment: We are of opinion that this appeal should be allowed. Whatever the precise effect of these documents may be, and whether they have the force of law or not, their effect has been destroyed by the "Taxation Ordinance, 1879." That law says there shall not be claimed by, or allowed to, any person or persons whomsoever, native or alien whose domicilium for the time being is this Island, and whether under plea or pretence of custom, licence, nationality, condition, creed, calling or otherwise the right of exemption from payment of the several taxes, duties, etc., enumerated in the schedule.—The sheep-tax is one of the taxes enumerated in the schedule.

BOVILL,
C.J.
&
SMITH, J.
—
—
QUEEN'S
ADVOCATE
v.
SUPERIN-
TENDENT
SINAI
MONASTERY.

We have no doubt that this law abolished all exemptions from taxation however founded. The words "and whether," etc., are not words of limitation and mean "even if a person had a licence from a competent authority" he is obliged to pay. The law intended to abolish all such exemptions as are claimed in this case, and we think the language is wide enough to carry out this intention.

Appeal allowed with costs.

[BOVILL, C.J. AND SMITH, J.]

ELENI HADJI HARALAMBO (AS NEXT
FRIEND OF HER INFANT CHILDREN THEO-
DORO AND CHRYSALLOU) *Plaintiff,*

v.

TOGLI HADJI MICHAÏL *Defendant.*

BOVILL,
C.J.
&
SMITH, J.
1885.
—
—
October 13.

LEGITIMACY—CHILDREN BORN OUT OF WEDLOCK—ACKNOWLEDGMENT OF CHILDREN—INCAPACITY OF PARENTS TO CONTRACT A VALID MARRIAGE.

A man cannot by acknowledgment render legitimate the children born of intercourse with a woman with whom he could not contract a valid marriage by reason of her relationship to him.

APPEAL from the District Court of Kyrenia.

Action to recover the sum of 5,000 *p.*, representing the share which the plaintiff alleged her infant children were entitled to in the estate of Michail Lefteri, deceased.

Michail Lefteri lived with the plaintiff as his wife and the father of her two children.

The deceased and Eleni were related and there was evidence that a Bishop of the Eastern Church, to which they both belonged, had refused to give them a licence to be married as they were within the prohibited degrees of consanguinity.

BOVILL, C.J. & SMITH, J. It was admitted that the deceased had acknowledged the children to be his.

The District Court gave judgment for the plaintiff.

ELENI HJ. HARALAMBO

The defendant appealed.

TOGLI HJ. MICHAÏL.

Pascal Constantinides for the appellant. The infant children of the plaintiff are illegitimate and under the Intestate Succession Law, 1884, they are not entitled to a share in the inheritance. The deceased could not, by admitting that the children were his, render them legitimate. According to the judge's note he said, "It is a sin I could not marry her as I have made children by her." That is the declaration relied upon.

Respondent in person : There is evidence that he declared the children to be his.

1885.
October 17.

Judgment : The plaintiff in this case asks that her children shall be allowed to participate in the inheritance of Michail Lefteri, deceased. The facts are simple and undisputed. The plaintiff had lived with the deceased as his wife, but marriage between them was impossible owing to the fact that they were within the prohibited degrees of consanguinity according to the laws of the Church to which they both belonged. In order that the children should inherit their father's property they must be legitimate. It is quite clear that the plaintiff's children were born out of wedlock and unless the deceased could, by acknowledging them to be his, render them legitimate, their claim must fail. There are cases in which a man may acknowledge children to be his and so render them capable of succeeding to his property as his heirs. We have had some doubt as to whether the rules regulating acknowledgments of this kind are applicable to those made by non-Moslem Turkish subjects ; but, even if they can be applied, it seems to us that a man cannot by acknowledgment render children legitimate where an obstacle existed which prevented them from being legitimate. It is clear from the evidence that the deceased was aware that no marriage was possible between him and the plaintiff, and it appears to us that the case must be governed by the rules which lay down the principle that offspring which is the result of illicit intercourse cannot be legitimized by acknowledgment. For these reasons we think that these children have no right to share in the inheritance of the deceased Michail Lefteri and that the judgment of the District Court was wrong.

Appeal allowed.