

English jurisprudence, except that it is conferred by statute, and possibly all statutory rights should be classed as legal in one sense. The statutory right conferred on the testator's family has all the characteristics of what English lawyers would generally call an equitable right, inasmuch as it consists in the right to apply to the court—and, where common law and equity are not administered concurrently, to the court in its equity jurisdiction—for suitable provision to be made out of the estate of the testator in the hands of his representatives.

The home of the legislation referred to is New Zealand, and apparently as yet similar statutes have only been enacted in Victoria and New South Wales. It would not be surprising if enactments on the lines of these statutes were to find favour in other parts of the Empire, even in the United Kingdom itself—except, of course, Scotland, where they are not necessary. The movement in favour of the creation of a Public Trustee originated in New Zealand, with the result that the Public Trustee is now an established institution here.

The first New Zealand Act on the subject was passed in 1900. Victoria followed in 1906, and New South Wales in 1916. The enactments now in force in New Zealand are contained in ss. 32-36 of the Family Protection Act 1908 (No. 60), those in force in Victoria in ss. 108-117 of the Administration of Probate Act, 1915 (N. 2611), and the New South Wales enactment consists of ss. 1-12 of the Testator's Family Maintenance and Guardianship of Infants Act, 1916 (No. 41). The New Zealand and New South Wales provisions are substantially identical; those of Victoria differ slightly.

The scheme of the statutes is as follows: If a testator leaves his widow and children insufficiently provided for, the court may be applied to and may order a suitable provision to be made out of the testator's assets. In New South Wales and New Zealand, though not in Victoria, the Act applies to the case of a woman leaving her husband insufficiently provided for. The provision ordered by the court may, in New Zealand and New South Wales, take the form of either a "lump sum" or periodical payments. In Victoria nothing is said in the statute itself about a lump sum,