

defeated or interfered with further or otherwise than is necessary for carrying into effect the provisions of this Ordinance, and for securing to such heir or heirs as aforesaid, the amount or value of his or their respective legitimate portion or portions as aforesaid according to the true intent and meaning of this Ordinance.

4. And be it further enacted, That this Ordinance shall come into force and take effect from and immediately after the promulgation thereof.

Passed in Council this twenty-second day of November, one thousand eight hundred and forty-three.

THOMAS F. JOHNSTON,

*Clerk of Council.*

---

## No. 1.—1844.

AN ORDINANCE for Assimilating the Law with respect to Wills to the Law of England.

(L.S.) H. MACLEOD.

**W**HEREAS it is expedient that the Law of this Colony, with respect to Wills, should be assimilated to the Law of England in like cases.

1. Be it therefore enacted, and it is hereby enacted by His Excellency the Governor in and over the Island of Trinidad and its Dependencies, by and with the advice and consent of the Council of Government thereof, and by the authority of the same, That the words and expressions hereinafter mentioned, which in the ordinary signification have a more confined or a different meaning, shall in this Ordinance, except where the nature of the provisions or the context of the Ordinance shall exclude such construction, be interpreted as follows, that is to say, the word "Will" shall extend to a testament and to a codicil, and to an appointment by will or by writing in the nature of a will, in exercise of a power, and every

word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

2. And be it enacted, That no will made by any person under the age of twenty-one years shall be valid.

3. And be it enacted, That no will shall be valid unless it shall be in writing, and executed in manner hereinafter mentioned, that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses of either sex, competent to attest a will according to the law of England, present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.

4. And be it enacted, That no appointment made by will, in exercise of any power shall be valid, unless the same be executed in manner hereinbefore required; and every will executed in manner hereinbefore required, shall so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

5. And be it enacted, That every will executed in manner hereinbefore required shall be valid without any other publication thereof.

6. And be it enacted, That if any person who shall attest the execution of a will, shall at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid.

7. And be it enacted, That if any person shall attest the execution of any will to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts) shall be thereby given

or made; such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person, or wife or husband, be utterly null and void; and such person so attesting shall be admitted as a witness to prove the execution of such will, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will.

8. And be it enacted, That no person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

9. And be it enacted, That every will made by a man or woman shall be revoked by his or her marriage.

10. And be it enacted, That no will shall be revoked by any presumption of an intention, on the ground of an alteration in circumstances.

11. And be it enacted, That no will or codicil, or any part thereof, shall be revoked otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence, and by his direction, with the intention of revoking the same.

12. And be it enacted, That no obliteration, interlineation, or other alteration made in any will after the execution thereof shall be valid or have any effect, except so far as the words or effect of the will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; but the will with such alteration, as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses be made in the margin, or on some other part of the will, opposite or near to such alteration, or at the foot, or end of, or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

13. And be it enacted, That no will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and shewing an intention to revive the same; and when any will or codicil, which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shewn.

14. And be it enacted, That no conveyance, or other act made or done subsequently to the execution of a will or relating to any real or personal estate therein comprised, except an act by which such will shall be revoked as aforesaid, shall prevent the operation of the will with respect to such estate or interest, in such real or personal estate as the testator shall have power to dispose of by will at the time of his death.

15. And be it enacted, That every will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will.

16. And be it enacted, That unless a contrary intention shall appear by the will, such real estate or interest therein as shall be comprised or intended to be comprised in any devise in such will contained, which shall fail or be void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such will.

17. And be it enacted, That a devise of the land of the testator, or of the land of the testator in any place, or in the occupation of any person mentioned in his will, or otherwise described in a general manner; and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include the leasehold estates of the testator, or any of them, to which such description shall extend, as the case may be,

as well as freehold estates, unless a contrary intention shall appear by the will.

18. And be it enacted, That a general devise of the real estate of the testator, or of the real estate of the testator in any place, or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend, as the case may be, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal property described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description shall extend, as the case may be, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of the power, unless a contrary intention shall appear by the will.

19. And be it enacted, That where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a contrary intention shall appear by the will.

20. And be it enacted, That in any devise or bequest of real or personal estate, the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which may import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean the want or failure of issue in the lifetime, or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will; provided that this Ordinance shall not extend to cases where such words as aforesaid import if no issue described in a preceding gift shall be born; or if there shall be no issue, who shall live to attain the age, or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

21. And be it enacted, That where any real estate shall be devised to any trustee or executor, such devise shall be construed to pass the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a different intention shall appear by the will.

22. And be it enacted, That where any real estate shall be devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate or in the surplus rents and profits thereof shall not be given to any person for life, or such beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of such person; such devise shall be construed to vest in such trustee the whole estate which the testator had power to dispose of by will in such real estate, and not an interest determinable when the purposes of the trust shall be satisfied.

23. And be it enacted, That where any real estate shall be devised to any person in such manner, that such person would, according to the law of England, take an estate tail, or an estate in quasi entail; and such person shall die in the lifetime of the testator, leaving issue who shall be inheritable under such entail; and any such issue shall be living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

24. And be it enacted, That where any person being a child or other issue of the testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the testator, leaving issue; and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

25. And be it enacted, That this Ordinance shall not extend to any will made before the time of this Ordin-

ance coming into effect; and that every will re-executed or re-published or revived by any codicil, shall for the purposes of this Ordinance be deemed to have been made at the time at which the same shall be so re-executed, re-published, or revived.

26. And be it enacted, That the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-eighth, twenty-ninth, thirtieth, thirty-first, and thirty-second Laws of the first title of the sixth Partida: the fourth and sixth Laws of the second title of the sixth Partida: the seventh, eighth, fourteenth, twenty-second, twenty-third, twenty-fourth, and twenty-fifth Laws of the third title of the sixth Partida: the fifth, sixth, seventh, eighth, seventeenth, thirty-second, thirty-fourth, thirty-fifth, thirty-ninth, and fortieth Laws of the ninth title of the sixth Partida: and the Laws of the twelfth title of the sixth Partida: and the second, seventh, and eighth Laws of the eighteenth title of the tenth book of the Novisima Recopilacion: and the eight Laws of the nineteenth title of the tenth book of the Novisima Recopilacion, so far as the same are now in force, and in so far as the same are contrary or repugnant to or inconsistent with this Ordinance; and all other Laws in any way contrary or repugnant to or inconsistent with this Ordinance, shall be and the same are hereby repealed.

27. And be it enacted, That this Ordinance shall take effect from and after the expiration of three calendar months next after the promulgation thereof.

Passed in Council this first day of March, in the year of our Lord one thousand eight hundred and forty-four.

(Signed)

THOMAS F. JOHNSTON,

*Clerk of Council.*