

matters or things, as well as one person, matter or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male, unless in any of the cases aforesaid it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Commence-  
ment of Ordi-  
nance.

8. And be it enacted, That this Ordinance shall commence and take effect upon and immediately after the promulgation of the same.

Passed in Council this eleventh day of April, in the year of our Lord one thousand eight hundred and forty-five.

JAMES PORTER,  
*Acting Clerk of Council.*

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## No. 19 — 1845.

AN ORDINANCE for improving the Remedies of Creditors against the Property of their Debtors.

(L. S.) H. MACLEOD.

WHEREAS it is expedient that provision should be made for improving the remedies of creditors against the property of their debtors, and assimilating the same to the law of England: Be it therefore enacted by His Excellency the Governor and Commander-in-Chief in and over the said Island and its dependencies, by and with the advice and consent of the Council of Government thereof, That for the avoiding and abolishing of feigned covinous and fraudulent gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, as well of lands and tenements as of goods and chattels devised and contrived of malice, fraud, covin, collusion, or guile, to the end, purpose, and intent to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, and forfeitures, all and every gift, grant,

All covinous  
gifts, grants,  
&c., to be void.

alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels, or of any of them, or of any lease, rent or other profit or charge out of the same lands tenements, hereditaments, goods and chattels, or any of them, by writing or otherwise, and all and every bond, suit, judgment, and execution at any time hereafter to be had or made to or for any intent or purpose before declared and expressed, shall be from henceforth deemed and taken only as against that person or persons, his or their heirs, successors, executors, administrators, and assigns, and every of them whose actions, suits, debts, accounts, damages, penalties, and forfeitures by such guileful, covinous, or fraudulent devises and practices as is aforesaid, are, shall, or might be in anywise disturbed, hindered, delayed or defrauded, to be clearly and utterly void, frustrate and of none effect; any pretence, colour, feigned consideration, expressing of use or any other matter or thing to the contrary notwithstanding.

2. Provided always and be it enacted, That anything herein contained shall not extend to any estate or interest in lands, tenements, hereditaments, leases, rents, profits, goods or chattels hereafter to be made, conveyed, or assured, which estate or interest shall be upon good consideration and *bona fide* lawfully conveyed or assured to any person or persons, or bodies politic or corporate, not having at the time of such conveyance or assurance to them made any manner of notice or knowledge of such covin, fraud, or collusion as is aforesaid, anything before mentioned to the contrary notwithstanding.

Proviso as to conveyances for good consideration *bona fide*.

3. And be it enacted, That a judgment or decree hereafter to be entered up against any person in any superior Court of Record in this Island, shall operate as a charge upon all lands, tenements, rents and hereditaments of or to which such person shall at the time of entering up such judgment or decree, or at any time afterwards, be seized, possessed, or entitled, for any estate or interest whatever, whether in possession, reversion, remainder, or expectancy, or over which such person shall at the time of entering up such judgment or decree, or at any time afterwards, have any disposing power which he might without the assent of any other person exercise for his own benefit, and shall be binding as against the person

Judgment to operate as a charge on real estate.

against whom such judgment or decree shall be entered up, and against all persons claiming under him after such judgment or decree, and shall be also binding as against the issue of his body, and all other persons whom he might without the assent of any other person cut off and debar from any remainder, reversion, or other interest in or out of any of the said lands, tenements, rents and hereditaments.

Decrees, orders, rules, &c., to have effect of judgments.

4. And be it enacted, That all decrees and orders of the Supreme Civil Court made in any suit, and all rules of the said Court made in any action whereby any sum of money, or any costs, charges, or expenses shall be payable to any person, shall have the effect of judgments in the Supreme Civil Court, and the persons to whom any such monies or costs, charges or expenses shall be payable shall be deemed judgment creditors within the meaning of this Ordinance, and all remedies hereby given to judgment creditors are in like manner given to persons to whom any monies or costs, charges or expenses are by such decrees, orders, or rules respectively directed to be paid.

No judgment, decree, &c., to affect real estate, until registered.

5. Provided always and be it enacted, That no judgment or decree of any Superior Court of Record in this Island shall affect any lands, tenements, or hereditaments as to purchasers, mortgagees, or creditors, or have any preference against heirs, executors, or administrators, in the administration of their ancestors', testators', or intestates' estates, any notice to any such purchaser, mortgagee, or creditor, or to any such heir, executor, or administrator notwithstanding; unless and until a memorandum or minute containing the name and the usual or last known place of abode, and the trade or profession of the person whose estate is intended to be affected thereby, and the Court and title of the cause or matter in which such judgment, decree, order, or rule shall have been obtained or made, and the date of such judgment, decree, order, or rule, and the amount of the debt, damages, costs, or monies thereby recovered or ordered to be paid, shall be left with the Registrar of Deeds of the Island, who shall forthwith enter the same particulars, together with the year and the day of the month when such memorandum or minute is so left with him, in a book in alphabetical order by the name of the person whose

estate is intended to be affected by such judgment, decree, order, or rule, and such Registrar shall be entitled for any such entry to the sum of five shillings sterling, and all persons shall be at liberty to search the same book on payment of the sum of one shilling sterling.

6. And be it enacted, That all such judgments and decrees as shall be so registered as hereinbefore directed, shall, after the expiration of three years from the date of the entry thereof, be null and void against lands, tenements, and other hereditaments, as to purchasers, mortgagees, and creditors, and shall not have any preference against heirs, executors, or administrators in the administration of their ancestors', testators', or intestates' estates, unless a like memorandum or minute, as was required in the first instance, is again left with the Registrar of Deeds within three years before the execution of the conveyance, settlement, mortgage, lease, or other deed or instrument vesting or transferring the right, title, estate, or interest in or to any such purchaser or mortgagee for valuable consideration, or as to creditors within three years before the right of such creditors accrued, or as to heirs, executors, or administrators within three years before the death of the testator or intestate, and so *toties quoties* at the expiration of every three years; and the Registrar shall forthwith re-enter the same in like manner as the same was originally entered, and such Registrar shall be entitled for any such re-entry to the sum of one shilling sterling.

Judgments, decrees, &c., to be again registered after the expiration of three years.

7. Provided also and be it enacted, That nothing in this Ordinance contained shall extend to affect or prejudice any judgment as between the parties thereto, or their representatives, or those deriving as volunteers under them.

No judgment to be prejudiced as between the parties.

8. And be it enacted, That every judgment debt to be hereafter entered up shall carry interest at the rate of six pounds per centum per annum, from the time of entering up the judgment until the same shall be satisfied, and such interest may be levied under a writ of execution on such judgment.

Judgment debt to carry interest.

9. And be it enacted, That in all actions, personal, real, or mixed, in the Supreme Civil Court of the Island,

Death of either party

between verdict and judgment not to prejudice the judgment.

the death of either party between the verdict of the jury or the finding of the Judge, or the first day of the term at which such action shall be tried, and the judgment shall not hereafter be alleged for error, or in any way affect the judgment, so as such judgment be entered up within two terms after such verdict or finding.

Every writ of execution to bind the goods and chattels of the debtor from the time of the writ being lodged with the Marshal.

10. And be it enacted, That every writ of execution shall bind the property of the goods of the person against whom such writ of execution is sued forth, from the time that such writ shall be delivered to the marshal to be executed, in the same manner and to the same extent as a writ of *feri facias* binds the property of the goods of the defendant from the time of the delivery of such writ to the Sheriff to be executed according to the law of England; and for the better manifestation of the said time, the marshal or his assistant shall, upon the receipt of any such writ, without fee for doing the same, indorse upon the back thereof the day of the month and year wherein he shall receive the same.

Marshal or his assistant not bound to exhibit writ, unless required, or make a demand of satisfaction from the defendant.

11. And be it enacted, That the marshal or his assistant in executing any writ of execution shall not be bound to exhibit such writ to the defendant, unless requested by the defendant so to do, nor to demand satisfaction of such writ from the defendant, but it shall be lawful for the marshal or his assistant to make execution of any moveable property, and in default thereof of any immoveable property of the defendant, in the absence of and without any previous notice to the defendant, any law or custom to the contrary in anywise notwithstanding.

Marshal to keep a registry of writs lodged with him.

12. And be it enacted, That it shall be the duty of the marshal to keep a registry of all writs of execution delivered to such marshal under the surname of each defendant, distinguishing the name or names of the plaintiff or plaintiffs at whose suit any such writ shall have been sued out, together with the amount of such writ, and the day of the month and year of the same being so lodged with the marshal; and every person shall have the right to examine such registry on payment to the marshal of the sum of one shilling sterling for every such examination.

Marshal empowered to seize money,

13. And be it enacted, That by virtue of any writ of execution to be sued out of any superior or inferior Court

after the time appointed for the commencement of this Ordinance, or any precept in pursuance thereof, the marshal or other officer having the execution thereof may and shall seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money belonging to the person against whom such writ of execution shall be sued out, and also may and shall levy upon and attach any securities which may be registered whereby any money may be secured to be paid to the person against whom such writ of execution shall be sued out, or to any person in trust for him, and may and shall pay or deliver to the party suing out such execution any money or bank notes which shall be so seized or a sufficient part thereof, and may and shall hold any such cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money as a security or securities for the amount by such writ of execution directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may sue in the name of such marshal or other officer for the recovery of the sum or sums secured thereby, if and when the time of payment thereof shall have arrived, and that the payment to the marshal by the party liable on any such cheque, bill of exchange, promissory note, bond, specialty, or other security with or without suit, or the recovery and levying execution against the party so liable shall discharge him to the extent of such payment, or of such recovery and levy in execution as the case may be, from his liability on any such cheque, bill of exchange, promissory note, bond, specialty, or other security, and such marshal or other officer may and shall pay over to the party suing out such writ the money to be recovered, or such part thereof as shall be sufficient to discharge the amount by such writ directed to be levied, and if after satisfaction of the amount so to be levied, together with expenses, any surplus shall remain in the hands of such marshal or other officer, the same shall be paid to the party against whom such writ shall be so issued: Provided, that the marshal or other officer shall not be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, bond, specialty, or other security, unless the party suing out such execution shall enter into a bond with one sufficient surety for indemnity

banknotes &c.

And to pay the same to execution creditor.

And to sue for amount secured by Bills of Exchange.

Proviso as to indemnity for Marshal.

fyng him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof, the expense of such bond to be deducted out of any money to be recovered in such action.

Marshal notto  
levy on any  
salary payable  
out of the Col-  
onial Trea-  
sury, nor on  
any debt un-  
less due upon  
some security.

14. Provided always, and be it enacted, That it shall not be lawful for the marshal or other officer by virtue of any writ of execution to levy upon any salary or any share, part, or proportion of any salary payable or to become payable from and out of the Colonial Treasury to the person against whom such writ of execution shall be sued out, nor upon any debt or monies due and payable or to become due and payable to such person by any person or persons, unless such debt or monies shall be due upon or secured by a cheque, bill of exchange, promissory note, bond, specialty, or other security.

Stock and  
shares in pub-  
lic companies  
belonging to  
the debtor and  
standing in his  
name to be  
charged by  
order of a  
Judge.

15. And be it enacted, That if any person against whom any judgment shall have been entered up in any Superior Court of Record in this Island, shall have any stock or shares of or in any public company carrying on business in this Colony (whether incorporated or not) standing in his name in his own right, or in the name of any person in trust for him, it shall be lawful for a Judge of such Superior Court on the application of any judgment creditor, to order that such shares, or such of them, or such part thereof respectively as he shall think fit, shall stand charged with the payment of the amount for which judgment shall have been so recovered and interest thereon, and such order shall entitle the judgment creditor to all such remedies as he would have been entitled to if such charge had been made in his favour by the judgment debtor.

Order of  
Judge to be  
made in the  
first instance  
*ex parte*, and  
on notice to  
the Company  
to restrain a  
transfer.

16. And in order to prevent any person against whom judgment shall have been obtained, from transferring, receiving, or disposing of any stock or shares hereby authorized to be charged for the benefit of the judgment creditor under an order of a Judge, be it further enacted, That every order of a Judge charging any stock or shares in any public company under this Ordinance shall be made in the first instance *ex parte*, and without any notice to the judgment debtor, and shall be an order to show cause only: and such order, if any stock or shares of or in any public company, standing in the name of

the judgment debtor in his own right, or in the name of any person in trust for him, is or are to be affected by any such order shall, restrain such public company from permitting a transfer thereof; and that if after notice of such order to the person or persons to be restrained thereby, or in case of corporations to any authorized agent of such corporation, and before the same order shall be discharged or made absolute, such corporation or person or persons shall permit any such transfer to be made, then and in such case the corporation or person or persons so permitting such transfer shall be liable to the judgment creditor for the value or amount of the property so charged and so transferred, or such part thereof as shall be sufficient to satisfy his judgment, and that no disposition of the judgment debtor in the meantime shall be valid or effectual as against the judgment creditor, and further, that unless the judgment debtor shall within a time to be mentioned in such order show to a Judge of such Superior Court sufficient cause to the contrary, the said order shall after proof of notice thereof to the judgment debtor, his attorney or agent, be made absolute, provided that any such Judge shall, upon the application of the judgment debtor, or any person interested, have full power to discharge or vary such order, and to award such costs upon such application as he may think fit.

17. And be it enacted, That all the provisions hereinbefore contained with regard to the charging any stock or shares, shall be deemed and taken to extend to the interest of any judgment debtor, whether in possession, remainder, or reversion, and whether vested or contingent, as well in any such stock or shares aforesaid, as also in the dividends, interest, or annual produce of any such stock or shares.

Any interest vested or contingent in any stock or interest or dividend to be within the provisions of this Ordinance.

18. And be it enacted, That if any judgment creditor, who under the powers of this Ordinance shall have obtained any charge, or be entitled to the benefit of any security whatsoever, shall afterwards and before the property so charged or secured shall have been converted into money or realized, and the produce thereof applied towards payment of the judgment debt, cause the person of the judgment debtor to be taken or charged in execution upon such judgment, then and in such case

Securities not realized to be relinquished, if the person taken in execution.

such judgment creditor shall be deemed and taken to have relinquished all right and title to the benefit of such charge or security, and shall forfeit the same accordingly.

New writs to be framed.

19. And be it enacted, That such new or altered writs shall be sued out of such Superior Courts of Record, or any of them, as may by such Courts respectively be deemed necessary or expedient for giving effect to the provisions hereinbefore contained, and in such form as the Judges of the said Courts respectively shall from time to time think fit to order; and the execution of such writs shall be enforced in such and the same manner as the execution of writs of execution is now enforced, or as near thereto as the circumstances of the cases will admit, and that any existing writ the form of which shall be in any manner altered in pursuance of this Ordinance shall nevertheless be of the same force and virtue as if no alteration had been made therein except so far as the effect thereof may be varied by this Ordinance.

No mortgage, except a tacit mortgage, to affect any property not specifically conveyed or charged.

20. And be it enacted, That no mortgage to be made after the commencement of this Ordinance, and not being a tacit mortgage, shall be deemed or taken to charge or affect any property real or personal, or to entitle any persons claiming under or by virtue of such mortgage to preference or priority of payment of his mortgage debt out of any property real or personal, save and except such property as shall be expressly conveyed, assigned, or charged by such mortgage.

No terceria to be allowed in respect of moveable property.

21. And be it enacted, That no proceeding by way of terceria shall be allowed in respect of any personal or moveable property, goods, debts, chattels, or effects taken in execution, or levied upon or sold by the marshal; but the marshal shall be subject to such and the like actions at the suit of any person claiming any right in or to any such personal or moveable property, goods, debts, chattels, or effects, or the proceeds or any part of the proceeds of the sale thereof as the Sheriff would be subject to in the like case by the law of England.

Interpretation clause.

22. And be it enacted, That whenever this Ordinance hath used words importing the singular number or the masculine gender only, it shall be understood to include

several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

23. And be it enacted, That from and after the commencement of this Ordinance all Laws, Ordinances, and Orders of Government, in any way repugnant to or inconsistent with the provisions of this Ordinance, shall be and the same are hereby repealed.

All Laws, &c., inconsistent with this Ordinance repealed.

24. And be it enacted, That this Ordinance shall commence and come into operation immediately from and after the day of the promulgation thereof.

Commencement of Ordinance.

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

THOMAS F. JOHNSTON,

*Clerk of Council.*

## No. 20.—1845.

AN ORDINANCE to enable the Supreme Civil Court to hold sittings in time of vacation.

(L. S.) H. MACLEOD.

BE it 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, That from and after the commencement of this Ordinance it shall be lawful for the Supreme Civil Court of the said Island at their discretion to hold sittings in time of vacation, for the purpose of disposing of business then pending and undecided in the said Court.

Court to hold sittings in vacation.

2. And be it further enacted, that such sittings in vacation may be holden by virtue of a rule or order of the said Court to be made in term time, and to be affixed

Such sittings to be by virtue of a rule made in term time.