

part of the land or rent shall bear to the value of the whole of the land or rent comprised in the mortgage.

Commence-  
ment of Ordinance.

8. And be it enacted, That this Ordinance shall commence and take effect from and immediately after the promulgation thereof.

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

THOMAS F. JOHNSTON,  
*Clerk of Council.*

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## No. 24.—1845.

AN ORDINANCE for the Amendment of the Law of Inheritance, and for assimilating the same to the Law of England.

(L. S.) H. MACLEOD.

Meaning of  
words in the  
Ordinance.

WHEREAS it is expedient that the law of Inheritance in this Colony should be amended, and should be assimilated to the law of England: 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, and by the authority of the same, That the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Ordinance, except where the nature of the provision or the context of the Ordinance shall exclude such construction, be interpreted as follows (that is to say), the word "land" shall extend to all lands, messuages, and hereditaments, whether corporeal or incorporeal, and to money to be laid out in the purchase of land, and to chattels and other personal property by the law of England transmissible to heirs, and also to any share of the same hereditaments and properties or any of them, and to any estate of inheritance or estate

for any life or lives or other estate transmissible to heirs by the law of England, and to any possibility, right, or title of entry or action, and any other interest capable of being inherited according to the law of England; and whether the same estates, possibilities, rights, titles, and interests, or any of them shall be in possession, reversion, remainder, or contingency; and the words "the purchaser" shall mean the person who last acquired the land otherwise than by descent or partition; and the word "descent" shall mean the title to inherit land by reason of consanguinity as well as where the heir shall be an ancestor or collateral relation, as where he shall be a child or other issue; and the expression "descendants" of any ancestor shall extend to all persons who must trace their descent through such ancestor; and the expression "the person last entitled to land" shall extend to the last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the rents and profits thereof; and the word "assurance" shall mean any deed or instrument, other than "a will" by which any land shall be conveyed or transferred, 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 in every case descent shall be traced from the purchaser; and to the intent that the pedigree may never be carried further back than the circumstances of the case, and the nature of the title shall require, the person last entitled to the land shall, for the purposes of this Ordinance, be considered to have been the purchaser thereof, unless it shall be proved that he inherited the same; in which case the person from whom he inherited the same shall be considered to have been the purchaser, unless it shall be proved that he inherited the same; and in like manner the last person from whom the land shall be proved to have been inherited shall in every case be considered to have been the purchaser, unless it shall be proved that he inherited the same.

Descent shall be traced from the purchaser, but the last owner shall be considered to be the purchaser unless the contrary be proved.

3. And be it enacted, That when any land shall have been devised by any testator who shall die after the

Heir entitled under a will shall take as

devisee, and a limitation to the grantor or his heirs shall create an estate by purchase.

commencement of this Ordinance to the heir or to the person who shall be the heir of such testator, such heir shall be considered to have acquired the land as a devisee and not by descent; and when any land shall have been limited by any assurance executed after the commencement of this Ordinance to the person or to the heirs of the person who shall thereby have conveyed the same land, such person shall be considered to have acquired the same as a purchaser by virtue of such assurance, and shall not be considered to be entitled thereto as of his former estate or part thereof.

Where heirs take by purchase under limitations to the heirs of the ancestor, the lands shall descend as if the ancestor had been the purchaser.

4. And be it enacted, That when any person shall have acquired any land by purchase under a limitation to the heirs or to the heirs of the body of any of his ancestors contained in an assurance executed after the commencement of this Ordinance, or under a limitation to the heirs or to the heirs of the body of any of his ancestors, or under any limitation having the same effect contained in a will of any testator who shall depart this life after the commencement of this Ordinance, then and in any of such cases such land shall descend, and the descent thereof shall be traced as if the ancestor named in such limitation had been the purchaser of such land.

No primogeniture as amongst children or other issue as between collateral relations the same person to take as would be heir by the law of England.

5. And be it enacted, That as amongst the children or other issue of the purchaser there shall be no right of primogeniture nor preference of males to females, but such children and the issue of any deceased child for the share or portion of such child shall inherit equally as co-heirs, but as amongst collateral relations the same person shall be heir who in the like case would answer the description of heir according to the law of England, so that males shall be preferred to females, and the elder brother shall inherit to the exclusion of his younger brothers, and the eldest son of the elder brother shall inherit to the exclusion of the brothers of such elder brother.

Brothers, &c., shall trace descent through their parent.

6. And be it enacted, That no brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the parent.

Lineal

7. And be it enacted, That every lineal ancestor shall

be capable of being heir to any of his issue, and in every case where there shall be no issue of the purchaser, his nearest lineal ancestor shall be his heir in preference to any person who would have been entitled to inherit either by tracing his descent through such lineal ancestor, or in consequence of there being no descendant of such lineal ancestor, so that the father shall be preferred to a brother or sister, and a more remote lineal ancestor, to any of his issue other than a nearer lineal ancestor or his issue.

ancestor to be heir in preference to collateral persons claiming through him.

8. And be it enacted, That none of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their descendants shall have failed, and also that no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants shall have failed; and that no female maternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male maternal ancestors and their descendants shall have failed.

The male line to be preferred.

9. And be it enacted, That where there shall be a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestor, or her descendants, shall be the heir or heirs of such person in preference to the mother of a less remote male paternal ancestor or her descendants, and where there shall be a failure of male maternal ancestors of such person and their descendants, the mother of his more remote male maternal ancestor and her descendants, shall be the heir or heirs of such person in preference to the mother of a less remote male maternal ancestor and her descendants.

The mother of more remote male ancestor to be preferred to the mother of the less remote male ancestor.

10. And be it enacted, That any person related to the person from whom the descent is to be traced by the half blood, shall be capable of being his heir; and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood and his issue where the common ancestor shall be a male, and next after the common ancestor

Half blood, if on the part of a male ancestor to inherit after the whole blood of the same degree, if on the part of a female ancestor, after her.

where such common ancestor shall be a female, so that the brother of the half blood on the part of the father, shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother.

Ordinance not to extend to any descent before the commencement of the Ordinance.

No person not born in lawful wedlock to be capable of being heir to, or taking as next of kin any part of the personal estate of any person, except his legitimate issue; nor to transmit any right except to his legitimate issue.

No person not born in lawful wedlock to be entitled to any provision out of the estate of his reputed father.

No person not born in lawful wedlock to be entitled to any provision out of the estate of his mother or any maternal ancestor.

Laws repealed.

**11.** And be it enacted, That this Ordinance shall not extend to any descent which shall take place on the death of any person who shall die before the commencement of this Ordinance.

**12.** And be it enacted, That no person born after the commencement of this Ordinance, but who shall not be born in lawful wedlock, shall be capable of being heir to any person, except his legitimate issue, or of taking as next of kin any part of the personal estate of any person, except his legitimate issue; nor shall any person, except his legitimate issue, be capable of being the heir, or of taking as next of kin any part of the personal estate of any person born after the commencement of this Ordinance, but not born in lawful wedlock; and that no person shall be legitimated or deemed to be legitimate by reason of the subsequent marriage of his reputed parents, where such marriage shall be celebrated after the commencement of this Ordinance.

**13.** And be it enacted, That no person not born in lawful wedlock, shall be entitled to any provision or alimony out of or to any distributive share of the estate, real or personal of his reputed father, where such father shall die after the commencement of this Ordinance.

**14.** And be it enacted, That no person born after the commencement of this Ordinance, but who shall not be born in lawful wedlock, shall be entitled to any provision or alimony out of or to any distributive share of the estate, real or personal, of his mother, or any ancestor in the maternal line.

**15.** And be it enacted, That the sixth, seventh, eighth, ninth, tenth, eleventh and twelfth laws of the thirteenth title of the sixth Partida; the ninth, tenth, eleventh and twelfth laws of the laws of Toro; and the seventh law of the eighth title of the fifth book of the laws of the Nueva Recopilacion de las Leyes de Castilla, and all other laws, Ordinances, and orders of Government, in any way repugnant to the provisions of this Ordinance, shall be and the same are hereby repealed.

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

Commence-  
ment of Ordi-  
nance.

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

THOMAS F. JOHNSTON,  
*Clerk of Council.*

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## No. 25.—1845.

AN ORDINANCE to regulate the mode of Proceeding  
by *Scire Facias* on Judgments.

(L.S.) H. MACLEOD.

WHEREAS it is expedient to regulate the mode of proceeding by *scire facias* on judgments to be recovered in the Supreme Civil Court: Be it therefore enacted by His Excellency the Governor of the Island of Trinidad and its dependencies, by and with the advice and consent of the Council of Government thereof, That in all cases where final judgment in any action shall hereafter be recovered in the Supreme Civil Court of the Island, and a year and a day shall have elapsed after the signing of such judgment, without execution being sued out thereon and without any agreement between the parties for a stay of execution, or the plaintiff or defendant shall die after judgment recovered and before execution sued out thereon, the plaintiff, or if he or she be dead, his or her representative shall and may have such writ of *scire facias* for the reviving of such judgment against the defendant if living, or if he or she be dead, then against his or her executor or administrator, or his or her heir and terretenants as a plaintiff or his representative would be entitled to in the like case according to the practice of the Superior Courts of Common Law at Westminster; and if the defendant, or

When a year and a day shall have elapsed after final judgment, or plaintiff or defendant shall die after judgment and before execution, judgment to be enforced by *scire facias*, as in England.