

No. 23.—1845.

AN ORDINANCE to amend the Law with regard to Mortgages, and to assimilate the same to the Law of England.

(L. S.) H. MACLEOD.

WHEREAS by the laws now in force in this Colony the interests of mortgagees are not sufficiently protected: And whereas it is expedient that such laws should be amended and assimilated to the law of England in the like cases: Be it therefore 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 messuages and all other corporeal hereditaments whatsoever, and also to any share, estate or interest in them or any of them; and the word “person” shall extend to a body politic or corporate, and to a class of creditors or other persons as well as an individual; 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.

Interpretation
clause.

2. And be it enacted, That all mortgages to be made after the commencement of this Ordinance of any land or chattels, debts, or other property in this Colony may be made by way of sale, or demise, or assignment, according to the nature of the property mortgaged, subject to a proviso or condition for making void the same or for the re-conveyance or re-assignment of the property thereby sold, demised, or assigned according to the forms used in the like cases in England, and every mortgage so made shall vest in the mortgagee the same legal estate and interest in the property comprised in such mortgage

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as the mortgagee would take in the like case according to the law of England, subject nevertheless to the same equity of redemption as the mortgagor or those claiming through him would be entitled to in the like case according to the course and practice of the Courts of Equity in England.

All mortgages to take effect according to the priority of registration.

3. And be it enacted, That every deed duly registered whether such deed shall actually convey the legal estate or not, whereby any land in this Island may be charged or affected shall be deemed and taken as good and effectual both in law and equity according to the priority of time of registering such deed against all and every other deed, conveyance or disposition of the same property, and against all creditors by judgment of the person so conveying such land.

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Section 4 repealed by Ordinance 4 of 1862.

In suits on mortgages decree to be for a sale and not for a foreclosure.

5. And be it enacted, That where any suit shall be brought for enforcing any such mortgage security the complainant shall not be entitled to a decree for the foreclosure of the equity of redemption, but in lieu thereof the decree of the Court shall direct that the property mortgaged be sold, and the monies arising from such sale shall be applied in satisfaction of what on an account to be taken shall be found due on the mortgage security, and the surplus, if any, shall be paid to the mortgagor or his heirs.

Repealed by Ord. 21 1884

No action or suit to be brought by mortgagee, but within sixteen years next after last payment of principal or interest.

6. And be it enacted, That it shall and may be lawful for any person entitled to or claiming under any mortgage, whereby the legal estate in the land comprised in the mortgage shall be conveyed, to make an entry or bring an action or suit to recover such land at any time within sixteen years next after the last payment of the principal or interest money secured by such mortgage, although more than sixteen years may have elapsed since the time at which the right to make such entry or bring such action or suit shall have first accrued.

Mortgagor to be bound at the end of sixteen years

7. And be it enacted, That when any mortgagee claiming under or by virtue of any mortgage whereby the legal estate in the land comprised in the mortgage

shall be conveyed, shall have obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage the mortgagor or any person claiming through him shall not bring a suit to redeem the mortgage but within sixteen years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment of the title of the mortgagor or of his right of redemption shall have been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person, in writing, signed by the mortgagee or the person claiming through him, and in such case no such suit shall be brought but within sixteen years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given; and when there shall be more than one mortgagor or more than one person claiming through the mortgagor or mortgagors such acknowledgment if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but where there shall be more than one mortgagee or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or land or rent by, from or under him or them, and any person or persons entitled to any estate or estates, interest or interests to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons aforesaid as shall have given such acknowledgment shall be entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment with interest of the part of the mortgage money which shall bear the same proportion to the whole of the mortgage money as the value of such divided

from the time when the mortgagee took possession or from the last written acknowledgment.

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.

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