

51. In citing this Ordinance in other Ordinances and in legal instruments and legal proceedings it shall be sufficient to use the expression "The Trustee Ordinance, 1862." Title of this Ordinance.

Passed in Council this first day of April, in the year of our Lord one thousand eight hundred and sixty-two.

R. LECHIMERE GUPPY,

Clerk of Council.

No. 5.—1862.

1st April.

AN ORDINANCE for regulating the execution of Deeds, and the proof, registration and admission in evidence of Deeds and Wills.

ROB. W. KEATE.

WHEREAS a Proclamation was issued by His Excellency Sir Ralph James Woodford on the fifth day of February in the year one thousand eight hundred and fourteen, for the better preservation and security of the properties of all His Majesty's subjects within this Island and others interested therein, and for the more effectual registry and authentication of such deeds and instruments as are thereafter mentioned and referred to: And whereas an Order was made by His Royal Highness the Prince Regent in Council in the name and on the behalf of His Majesty King George the Third on the sixth day of April in the year one thousand eight hundred and eighteen to remove all doubts that might arise respecting the valid execution or registration of deeds, acts, or instruments whether executed within the Island of Trinidad or executed out of the said Island and intended to take effect within the said Island, and to make further provisions for the security and rights of Mortgagees and purchasers of real property within the same: And whereas an Ordinance was passed in Council on the eighth day of March Preamble.

in the year one thousand eight hundred and fifty-two, entitled "An Ordinance for amending the Law with regard to the Proof and Registration of deeds:" And whereas it is expedient that the said Proclamation and the said Order in Council and the said Ordinance should be repealed, and that the Law with regard to the execution and proof of Deeds, and the registration and admission in evidence of deeds and wills should be amended: Be it enacted by His Excellency the Governor by and with the advice and consent of the Council of Government as follows:

Repeals Proclamation of 5th February, 1814, Order in Council of 6th April, 1818, and Ordinance No. 4 of 1852.

1. The said Proclamation of the fifth day of February in the Year one thousand eight hundred and fourteen, the said Order of His Royal Highness the Prince Regent in Council of the sixth day of April in the year one thousand eight hundred and eighteen, and the said Ordinance of the eighth day of March in the Year one thousand eight hundred and fifty-two, shall be and the same are hereby repealed; save only and except so far as regards all deeds and instruments and wills and copies of deeds and instruments and wills duly registered at any time before the passing of this Ordinance, and the proof and admission in evidence of such deeds, instruments, and wills and copies of deeds, and instruments and wills. All which deeds and instruments and wills and copies of deeds, instruments and wills shall have the same effect and be admitted in evidence in the same manner as if this Ordinance had not been passed; and save also and except so far as regards all deeds made but not registered before the passing of this Ordinance, all which Deeds may be registered under this Ordinance.

Deeds how to be executed.

2. Every deed which by any Law now in force or hereafter to be in force shall be required to be registered shall be executed in the manner hereinafter directed.

Any deed may be registered.

3. Any deed, although the same shall not be required by law to be registered, may at the option of any party to such deed be registered under this Ordinance.

Deeds to be in English.

4. No deed shall be registered unless the same shall be in the English language and executed in the manner hereinafter directed.

Manner of executing

5. Every deed, if executed by any person in this Island, shall be signed and delivered by the person

executing the same in the presence of two witnesses at the least not being parties to the deed and before a Barrister, Advocate or Conveyancer duly admitted to practise in this Island, and such signing and delivery shall be attested by the witnesses to the same, who shall subscribe their names to such deed, and such Barrister, Advocate or Conveyancer shall subscribe his name and legal character upon or at the foot of such deed.

deeds within
the Colony.

6. Every deed if executed by any person in any place out of this Island shall be signed and delivered by the person so executing the same in the presence of, and such signing and delivering shall be attested by two witnesses at the least not being parties to such Deed and such witnesses shall subscribe their names to such deed.

Manner of
executing
deeds out of
the Colony.

7. No deed shall be registered unless the execution thereof by every person who shall have executed the same shall be proved upon the oath or solemn declaration of one of the witnesses attesting such execution.

Execution of
a deed to be
proved on
oath prior to
registry.

8. In all cases in which any deed shall have been executed by any person within this Island, the affidavit or solemn declaration of the witness proving such execution may be made before any Judge of the Supreme Civil Court of this Island or before the Registrar General or a Commissioner of Affidavits for this Island which affidavit or declaration shall be endorsed upon or written at the foot or in the margin of such deed, and may be according to the form in the schedule to this Ordinance annexed.

Before whom
affidavits
proving exe-
cution of a
deed within
this Island
are to be
made.

9. In all cases in which any deed shall have been executed by any person out of this Island, the oath or solemn declaration of the witness proving such execution may be made before any Judge of a Court of Record, or the Mayor of any City, Town or Borough in Great Britain or Ireland, or in any British Colony, Possession or Dependency, or if the same shall have been executed in any of the United States of America before any Judge of a Court of Record, or the Mayor or other Chief Magistrate of any place in such State, or if the same shall have been executed in any other foreign country before any British Minister or Consul residing

If executed
out of the
Island, before
whom the affi-
davit may be
made.

in such country; or such oath or solemn declaration may in any of the cases aforesaid be made before any Judge of the Supreme Civil Court of this Island, or before the Registrar General.

Such oath to be certified.

10. The making of any such oath or solemn declaration, where the same shall be made by any person in any place out of this Colony, shall be certified under the hand and seal, if any, of the Judge, Mayor or other Chief Magistrate, Minister or Consul before whom the same shall be made.

Powers of Attorney to be registered.

11. No power of attorney, to be made after the passing of this Ordinance, shall be admitted in evidence in any suit, action or other proceeding unless the same shall be executed and registered in the manner directed by this Ordinance.

Registrar General to number deeds and to annex a certificate.

12. The Registrar General shall number every deed which shall be registered in each year with a distinguishing number according to the order of time in which such deed shall be registered, beginning with the number one and proceeding in a regular numerical series, and shall, at the time when any such deed shall be delivered to him, endorse upon or annex to such deed a certificate according to the form in the Schedule to this Ordinance under his hand, stating the day and time when such deed shall have been delivered to him for registration, the number of pages on which such deed shall be written, and the distinguishing number under which such deed shall be registered.

Wills concerning lands in this Island to be registered.

13. Every will of or concerning any lands in this Island, or in those cases where the original will shall have been proved in, or letters of administration with the will annexed shall have been granted by any Court of Probate in England or Ireland, or by any competent Court or Officer in any British Possession, Colony or Dependency, and shall be deposited in any such Court, or under the control of any such Officer, or in any Office of Registrar in any British Possession, Colony or Dependency, an official copy of the probate of such will or of the letters of administration with the will annexed, stamped with the seal, if any, of such Court, or duly certified under the hand and seal of office, if any, of such

competent Officer, or of the Officer having the custody of such will, or in those cases where any act of trust, disposition and settlement whereby any lands in this Colony may be affected shall have been registered in the books of the Lords of Session in Scotland an official copy of such act certified by the Officer having the custody of such books, or in those cases where any original will made in any foreign country shall be deposited under the control of any Court or Officer of such country, then an official copy of such will and the probate of the same or of the letters of administration with the will annexed, if such there be, under the seal, if any, of such Court, or an official copy of such will certified by the Officer having the custody of such will, shall be registered in the office of the Registrar General of this Island, and no such will or act of trust, disposition and settlement shall be admitted in evidence in any action at Law or suit in equity unless such will or such copy of the probate of such will, or of the letters of administration with the will annexed or such official copy of the same shall have been registered in this Island.

14. The Registrar General shall number every will which shall be registered in each year according to the order of time in which the same shall be delivered to him for registration, beginning with the number one and proceeding in a regular numerical series, and shall at the time when any such will shall be delivered to him endorse thereupon or annex to the same a certificate according to the form in the Schedule to this Ordinance under his hand, stating the name of the person by whom and the day and time when such will shall have been delivered to him for registration, the number of pages on which such will shall be written, and the distinguishing number under which such will shall be registered.

Registrar
General to
number Wills
and to annex
certificate
thereto.

15. All deeds and wills registered in each year shall, as soon as conveniently may be, be bound in convenient volumes marked on the back thereof with the year in which the same shall be registered and numbered in regular series according to the order of such volumes, wills being in all cases bound together in separate volumes from deeds.

Deeds and
Wills to be
bound in
volumes.

Where any
Will cannot
be bound up,
a copy to be
bound instead.

16. Where any deed or will, by reason of its form, or of the material on which the same is written or engrossed, cannot conveniently be so bound up, the Registrar General shall cause a true and correct transcript of the same, certified under his hand, to be inserted in lieu thereof in the proper volume and in its proper order according to its distinguishing number, and shall retain and keep in his custody the original deed or will whereof such transcript shall be so made.

Registrar
General to
keep Indexes.

17. The Registrar General shall keep four separate and distinct indexes, one of deeds, another of wills, another of judgments, decrees, orders and rules, and another of memoranda of *lis pendens*, and shall in the index of deeds enter every deed so registered under the letter of the alphabet corresponding with the initial letter of the surname of each person named as a party to such deed, with the christian names and surnames at full length of all persons named as parties to such deed, and shall in the index of wills enter each will under the letter of the alphabet corresponding with the initial letter of the surname of the testator, together with the christian name and surname at full length of such testator, and shall in the index of judgments, decrees, orders and rules, and in the index of memoranda of *lis pendens*, refer to every such judgment, decree, order or rule and *lis pendens* under the initial letter corresponding with the surname of every person whose estate is intended to be affected by such judgment, decree, order or rule, or such *lis pendens*, with the christian name and surname at full length of every such person.

Adjudications
of Insolvency,
adjudications
affecting
lands in this
Island and
orders made
under the
"Trustee
Ordinance"
to be
registered.

18. All adjudications of insolvency made by the Supreme Civil Court in this Island, and all adjudications or orders made by any competent Court in Great Britian or Ireland, and intended to affect any lands in this Island belonging to any bankrupt, and all copies of orders to be made by the Supreme Civil Court in Equity under "the Trustee Ordinance, 1862," and which copies are by the said Ordinance required to be registered, shall be registered with deeds, and shall be indexed in the index of deeds under the letter of the alphabet corresponding with the initial letter of the surname of every such insolvent or bankrupt, and of every trustee

to be named in any such order, with the christian name and surname at full length of every such insolvent, bankrupt or trustee.

19. All persons may search all indexes in the office of the Registrar General and examine and peruse all deeds and wills already registered or which may be hereafter registered under this Ordinance, and the Registrar General shall on the request of any person cause to be made and delivered to such person a true and correct copy certified under the hand of such Registrar General of any such deed or will or memorandum on payment in such case to the Registrar General of the proper fees in that behalf.

Indexes, deeds, &c., may be searched and perused, and copies may be made.

20. Every deed duly registered under this Ordinance or a copy thereof certified under the hand of the Registrar General shall be admissible in evidence without any further proof of the execution or registration of the same.

Registered deeds or certified copies to be admissible in evidence.

21. In any action at law or suit in equity where, according to the existing law, it would be necessary to produce and prove an original will in order to establish a devise or other testamentary disposition of or affecting any real estate in this Island, it shall be lawful for the party intending to establish in proof such devise or other testamentary disposition to give to the opposite party eight days at least before the trial or other proceeding in which the said proof shall be intended to be adduced notice that he intends at the said trial or other proceeding to give in evidence as proof of the devise or other testamentary disposition a copy certified by the Registrar General of the Probate of such will or of the Letters of Administration with the will annexed, where such will shall have been proved or such Letters of Administration with the will annexed shall have been granted by the Supreme Civil Court of this Island, or the registered copy of the probate of any will or of any letters of administration with the will annexed, or of any act of trust, disposition and settlement where such will shall have been proved or such letters of administration with the will annexed shall have been granted by any Court of Probate in England or Ireland, or by

Any person intending to establish a devise to give eight days' notice before trial that he intends to give in evidence a certified copy of the Probate of the Will, &c., &c.; and such copy shall be evidence, unless four days' notice be given that the devise is disputed.

any Court or competent Officer in any British Possession, Colony or Dependency, or the original of such act, of trust, disposition and settlement shall be registered in the books of the Lords of Session in Scotland; and in every such case such copy shall be sufficient evidence of such will or act of trust, disposition and settlement and of its validity and contents, unless the party receiving such notice shall within four days after such receipt give notice that he disputes the validity of such devise or other testamentary disposition.

Court to direct
by whom
costs are to be
paid.

22. In every case in which in any such action or suit the original will shall be produced and proved, it shall be lawful for the Court or Judge before whom such action or suit shall be heard or tried to direct by which of the parties the costs of such production and proof, shall be borne and paid.

Penalty for
forging seals
or signatures.

23. If any person shall forge the seal of any City, Town or Borough, or the seal or signature of any Mayor or any Mayoralty, or of any Judge, Minister or British Consul or of the Registrar General or of any Commissioner of Affidavits or of any Court of Probate or of any Judge of such Court, or of any Officer having the custody of any original will or act of trust, disposition and settlement to any deed or will or the copy of any will, or of the Probate of any will or of any letters of administration with the will annexed, or of any act of trust, disposition and settlement, or any such affidavit, declaration or certificate as is mentioned in this Ordinance, or shall tender to the Registrar General for registration or shall tender in evidence any such deed or will, or any such copy with a false or counterfeit seal or signature, affidavit, declaration or certificate thereto, knowing the same to be false or counterfeit, such person shall be guilty of felony, and shall upon conviction be liable to be imprisoned with hard labour for a term not exceeding three years nor less than one year, and every person who shall be charged with committing any felony under this Ordinance, and every accessory before or after the fact to such offence may be dealt with, indicted, tried, and if convicted, sentenced as a principal offender, and his offence may be laid and charged to have been committed in the Island of Trinidad.

24. Throughout this Ordinance the word "will" shall include copies of the probates of wills and of letters of administration with the will annexed, under the seal of any Court of Probate in England or Ireland, or of any competent Court or under the hand and seal, if any, of any competent officer in any British Possession, Colony or Dependency, and official copies of all acts of trust, disposition and settlement registered in the books of the Lords of Session in Scotland, certified by the officer having the custody of such books, and official copies of wills made in a foreign country, and probates of wills and letters of administration with the will annexed under the seal of any competent Court in any such foreign country, or certified by the officer having the custody of any original will made in any foreign country, and the words "British Minister or Consul" shall extend to and include any Chargé d'Affaires, Consul-General or Vice-Consul.

Definition of terms used in this Ordinance.

Passed in Council this 1st day of April, in the year of Our Lord one thousand eight hundred and sixty-two.

R. LECHMERE GUPPY, *Clerk of Council.*

FORM UNDER SECTION VIII.

I (A.B.), of _____ make oath and say (or do solemnly affirm and declare) that I was personally present together with E.F. of _____ (name the other witness) on the _____ day of _____ in the year of Our Lord 18____, at (place) and did then and there see C.D. one of the parties (or C.D. and G.H., _____ parties) to the within written deed purporting to be a deed poll (or a deed of _____ parts) and made by (or between) (name the parties to the deed) sign and deliver the same as and for his (her or their) deed; and that the signature (or signatures) _____ thereto subscribed is (or are) of the proper handwriting of the said C.D. (or C.D. and G.H.) and that the signatures "A.B." and "E.F." to the said deed subscribed as of the witnesses to the execution of the same by the said C.D. (or C.D. and G.H.) are respectively of the proper handwriting of said E.F., and of me this deponent (or declarant).

Sworn (or declared) at _____ (in the town of _____) this _____ day of _____ in the year of Our Lord one thousand eight hundred and _____

Before me,
(Signed)

FORM UNDER SECTION XII.

I (A.B.), Registrar-General of the Island of Trinidad, do hereby certify that the within written (*or annexed*) deed dated the day of _____ in the year of Our Lord 18____ and expressed to be made by (*or between, as the case may be*) C.D. (*or C.D.* of the one part, and G.H. of the other part) was delivered to me by _____ of _____ for registration on (*day of the week*) the _____ day of _____ in the year one thousand eight hundred and _____ at _____ o'clock in the _____ noon; and that the said deed is registered under No. _____ of the year one thousand eight hundred and _____ and that the number of pages on which the said deed is written is _____

Dated at Port of Spain, this _____ day of _____ in the year one thousand eight hundred and _____

(Signed)

A.B.,
Registrar-General.

FORM UNDER SECTION XIV.

I (A.B.), Registrar-General of the Island of Trinidad, do hereby certify that the annexed will (*or memorial of a will, as the case may be*) was delivered to me for registration by _____ of _____ on the _____ day of _____ in the year one thousand eight hundred and _____ at _____ o'clock in the _____ noon; and that the number of pages on which the said will (*or memorial*) is written is _____ and that the same is registered as No. _____ of wills for the year 18____

Dated this _____ day of _____ in the year one thousand eight hundred and _____

(Signed)

Registrar-General.

No. 6.—1862.

21st April.

AN ORDINANCE to amend the Law with respect to
Wills made by British Subjects.

ROB. W. KEATE.

BE it enacted by His Excellency the Governor, by and with the advice and consent of the Council of Government as follows: