

---

 TRINIDAD AND TOBAGO.

No. 8—1927.

I ASSENT,

[L.S.]

W. E. JACKSON,

*Acting Governor.*

23rd May, 1927.

AN ORDINANCE to amend the law relating to children born out of wedlock.

[On Proclamation.]

**B**E it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows :—

Short title  
and com-  
mencement.

1.—(1) This Ordinance may be cited as the Legitimacy Ordinance, 1927.

(2) This Ordinance shall commence and come into operation on a day to be fixed by the Governor by proclamation.

(3) The provisions of this Ordinance shall, save as therein otherwise expressly provided, extend only to this Colony.

## 2. In this Ordinance—

Interpre-  
tation.

“Legitimated person” means a person legitimated by this Ordinance ;

“Date of legitimation” means the date of the marriage leading to the legitimation, or where the marriage occurred before the commencement of this Ordinance, the commencement of this Ordinance ;

“Disposition” means an assurance of any interest in property by any instrument whether *inter vivos* or by will ;

“Intestate” has the same meaning as in the Administration of Property Ordinance, and Cap. 60.

“Will” includes “codicil.”

3.—(1) Subject to the provisions of this section, where the parents of an illegitimate person marry or have married one another, whether before or after the commencement of this Ordinance, the marriage shall, if the father of the illegitimate person was or is at the date of the marriage domiciled in the Colony, render that person, if living, legitimate from the commencement of this Ordinance, or from the date of the marriage, whichever last happens. Legitimation by subsequent marriage of parents.

(2) Nothing in this Ordinance shall operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born.

(3) The legitimation of a person under this Ordinance does not enable him or his spouse, children or remoter issue to take any interest in real or personal property save as is hereinafter in this Ordinance expressly provided.

(4) The provisions contained in the Schedule to this Ordinance shall have effect with respect to the re-registration of the births of legitimated persons.

4.—(1) A person claiming that he or his parent or any remoter ancestor became or has become a legitimated person may, whether domiciled in this Colony or elsewhere and whether a natural-born British subject or not, apply by petition to the Supreme Court praying the Court for a decree declaring that the petitioner is the legitimate child of Declarations of legitimacy of legitimated persons.

his parents; and the Supreme Court shall have jurisdiction to hear and determine such application and to make such decree declaratory of the legitimacy or illegitimacy of such person as to the Court may seem just; and such decree shall be binding to all intents and purposes on His Majesty and on all persons whomsoever.

(2) Every petition under this section shall be accompanied by such affidavit verifying the same, and of the absence of collusion, as the Court may by any general rule direct.

(3) In all proceedings under this section the Court shall have full power to award and enforce payment of costs to any persons cited, whether such persons shall or shall not oppose the declaration applied for, in case the said Court shall deem it reasonable that such costs should be paid.

(4) A copy of every petition under this section, and of the affidavit accompanying the same, shall, one month at least previously to the presentation or filing of such petition, be delivered to the Attorney-General, who shall be a respondent upon the hearing of such petition and upon every subsequent proceeding relating thereto.

(5) Where any application is made under this section to the said Court, such person or persons (if any) besides the said Attorney-General as the Court shall think fit shall, subject to the rules made under this section, be cited to see proceedings or otherwise summoned in such manner as the Court shall direct, and may be permitted to become parties to the proceedings, and oppose the application.

(6) The decree of the said Court shall not in any case prejudice any person, unless such person has been cited or made a party to the proceedings or is the heir-at-law or next of kin, or other real or personal representative of or derives title under or through a person so cited or made a party; nor shall such sentence or decree of the Court prejudice any person if subsequently proved to have been obtained by fraud or collusion.

(7) No proceeding to be had under this section shall affect any final judgment or decree already pronounced or made by any Court of competent jurisdiction.

(8) The Chief Justice with the concurrence of a Puisne Judge may make rules for carrying the provisions of this section into effect. Rules made under this section shall not have any force or effect until they have been approved by the Governor and the Legislative Council, and when so approved shall have the same force and effect as if they formed part of this Ordinance.

5.—(1) Subject to the provisions of this Ordinance, a legitimated person and his spouse, children or more remote issue shall be entitled to take any interest—

Rights of legitimated persons, &c., to take interests in property.

- (a) in the estate of an intestate dying after the date of legitimation ;
- (b) under any disposition coming into operation after the date of legitimation ;
- (c) by descent under an entailed interest created after the date of legitimation ;

in like manner as if the legitimated person had been born legitimate.

(2) Where the right to any property, real or personal, depends on the relative seniority of the children of any person, and those children include one or more legitimated persons, the legitimated person or persons shall rank as if he or they had been born on the day when he or they became legitimated by virtue of this Ordinance, and if more than one such legitimated person became legitimated at the same time, they shall rank as between themselves in order of seniority.

(3) Where property real or personal or any interest therein is limited in such a way that, if this Ordinance had not come into operation, it would (subject or not to any preceding limitations or charges) have devolved (as nearly as the law permits) along with a dignity or title of honour, then nothing in this Ordinance shall operate to sever the property or any interest therein from such dignity, but the same shall go and devolve (without prejudice to the preceding limitations or charges aforesaid) in like manner as if this Ordinance had not come into operation. This subsection applies, whether or not there is any express reference to the dignity or title of honour and notwithstanding that in some events the property, or some interest therein, may become severed therefrom.

(4) This section applies only if and so far as a contrary intention is not expressed in the disposition, and shall have effect subject to the terms of the disposition and to the provisions therein contained.

Succession on  
intestacy of  
legitimated  
persons and  
their issue.

6. Where a legitimated person or a child or remoter issue of a legitimated person dies intestate in respect of all or any of his real or personal property, the same persons shall be entitled to take the same interests therein as they would have been entitled to take if the legitimated person had been born legitimate.

Application to  
illegitimate  
person dying  
before  
marriage  
of parents.

7. Where an illegitimate person dies after the commencement of this Ordinance and before the marriage of his parents, leaving any spouse, children or remoter issue living at the date of such marriage, then, if that person would, if living at the time of the marriage of his parents, have become a legitimated person, the provisions of this Ordinance with respect to the taking of interests in property by, or in succession to, the spouse, children and remoter issue of a legitimated person (including those relating to the rate of estate duty) shall apply as if such person as aforesaid had been a legitimated person and the date of the marriage of his parents had been the date of legitimation.

Personal rights  
and obliga-  
tions of  
legitimated  
persons.

8. A legitimated person shall have the same rights, and shall be under the same obligations in respect of the maintenance and support of himself or of any other person as if he had been born legitimate, and, subject to the provisions of this Ordinance, the provisions of any Ordinance relating to claims for damages, compensation, allowance, benefit, or otherwise by or in respect of a legitimate child shall apply in like manner in the case of a legitimated person.

Estate duty.

9. Where a legitimated person or any relative of a legitimated person takes any interest in real or personal property, any estate, succession, legacy or other duty which becomes leviable after the date of legitimation shall be payable at the same rate as if the legitimated person had been born legitimate.

10.—(1) Where the parents of an illegitimate person marry or have married one another, whether before or after the commencement of this Ordinance, and the father of the illegitimate person was or is, at the time of the marriage, domiciled in a country, other than this Colony, by the law of which the illegitimate person became legitimated by virtue of such subsequent marriage, that person, if living, shall in this Colony be recognised as having been so legitimated from the commencement of this Ordinance or from the date of the marriage, whichever last happens, notwithstanding that his father was not at the time of the birth of such person domiciled in a country in which legitimation by subsequent marriage was permitted by law.

Provisions as to persons legitimated by extraneous law.

(2) All the provisions of this Ordinance relating to legitimated persons and to the taking of interests in property by or in succession to a legitimated person and the spouse, children and remoter issue of a legitimated person (including those relating to the rate of estate duty) shall apply in the case of a person recognised as having been legitimated under this section, or who would, had he survived the marriage of his parents, have been so recognised; and, accordingly, this Ordinance shall have effect as if references therein to a legitimated person included a person so recognised as having been legitimated.

(3) For the purposes of this section, the expression "country" includes any part of His Majesty's Dominions, as well as a foreign country.

11.—(1) Where, after the commencement of this Ordinance, the mother of an illegitimate child, such child not being a legitimated person, dies intestate as respects all or any of her real or personal property, and does not leave any legitimate issue her surviving, the illegitimate child, or, if he is dead, his issue, shall be entitled to take any interest therein to which he or such issue would have been entitled if he had been born legitimate.

Right of illegitimate child and mother of illegitimate child to succeed on intestacy of the other.

(2) Where, after the commencement of this Ordinance, an illegitimate child, not being a legitimated person, dies intestate in respect of all or any of his real or personal

property, his mother if surviving shall be entitled to take any interest therein to which she would have been entitled if the child had been born legitimate and she had been the only surviving parent.

(3) This section does not apply to or affect the right of any person to take by purchase or descent any entailed interest in real or personal property.

Savings.

**12.**—(1) Nothing in this Ordinance shall affect the succession to any dignity or title of honour or render any person capable of succeeding to or transmitting a right to succeed to any such dignity or title.

(2) Nothing in this Ordinance shall affect the operation or construction of any disposition coming into operation before the commencement of this Ordinance, or affect any rights under the intestacy of a person dying before the commencement of this Ordinance.

#### SCHEDULE. (SECTION 3.)

##### *Registration of Births of Legitimated Persons.*

Cap. 176.

**1.** The Registrar-General may, on production of such evidence as appears to him to be satisfactory, authorise at any time the re-registration of the birth of a legitimated person whose birth is already registered under the Births and Deaths Registration Ordinance, and such re-registration shall be effected in such manner and at such place as the Registrar-General may by regulations prescribe :

Provided that the Registrar-General shall not authorise the re-registration of the birth of any such person in any case where information with a view to obtaining such re-registration is not furnished to him by both parents, unless—

Cap. 176.

- (a) the name of a person acknowledging himself to be the father of the legitimated person has been entered in the register in pursuance of section 20 of the Births and Deaths Registration Ordinance ; or
- (b) the paternity of the legitimated person has been established by an affiliation order or otherwise by a decree of a court of competent jurisdiction ; or
- (c) a declaration of the legitimacy of the legitimated person has been made by the Supreme Court under section 4 of this Ordinance.

2. It shall be the duty of the parents of a legitimated person, or, in cases where re-registration can be effected on information furnished by one parent and one of the parents is dead, of the surviving parent, within the time hereinafter specified, to furnish to the Registrar-General information with a view to obtaining the re-registration of the birth of that person; that is to say:—

- (a) If the marriage took place before the commencement of this Ordinance, within six months of such commencement;
- (b) If the marriage takes place after the commencement of this Ordinance, within three months after the date of the marriage.

3. Where the parents, or either of them, fail to furnish the necessary information within the time limited for the purpose, the Registrar-General may at any time after the expiration of that time require the parents of a person whom he believes to have been legitimated by virtue of this Ordinance, or either of them, to give him such information concerning the matter as he may consider necessary, verified in such manner as he may direct, and for that purpose to attend personally either at his office or at any other place appointed by him within such time, not being less than seven days after the receipt of the notice, as may be specified in the notice.

4. The failure of the parents or either of them to furnish information as required by this schedule in respect of any legitimated person shall not affect the legitimation of that person.

5. No fee for re-registration under this schedule shall be charged if the necessary information for the purpose is furnished within the time above specified; but in any other case there shall be charged in respect of such re-registration such fees, not exceeding in the aggregate ten shillings, as may be prescribed by regulations under this schedule.

6. This schedule shall be construed as one with the Births and Deaths Cap. 176. Registration Ordinance.

Passed in Council this thirteenth day of May, in the year of Our Lord, one thousand nine hundred and twenty-seven.

E F. AANENSEN,  
*Acting Clerk of the Council.*

---