

WESTERN AUSTRALIA

ANNO OCTAVO DECIMO

VICTORIÆ REGINÆ

No. 13

An Ordinance for the amendment of the Laws with
respect to Wills. [*Assented to 20th April, 1855.*]

WHEREAS the laws with respect to the execution of wills
require further amendment: Be it therefore enacted by His
Excellency the Governor of Western Australia and its Dependen-
cies, by and with the advice and consent of the Legislative Council
thereof:—

Administration of Justice (Probate, &c.)

1. That whereas by an Act passed in the first year of the reign of Her Majesty Queen Victoria, intituled 'An Act for the amendment of the Laws with respect to Wills' (adopted in the said Colony by the Ordinance No. 1, of 1839), it is enacted, that no will shall be valid, unless it shall be signed at the foot or end thereof by the testator or by some other person in his presence, and by his direction; every will shall so far only as regards the position of the signature of the testator, or of the person signing for him as aforesaid, be deemed to be valid within the said enactment, as explained by this Ordinance, if the signature shall be so placed at or after or following or under or beside or opposite to the end of the will, that it shall be apparent, on the face of the will, that the testator intended to give effect by such his signature to the writing signed as his will, and that no such will shall be affected by the circumstance that the signature shall not follow or be immediately after the foot or end of the will, or by the circumstance that a blank space shall intervene between the concluding word of the will and the signature, or by the circumstance that the signature shall be placed among the words of the *testimonium* clause or of the clause of attestation, or shall follow or be after or under the clause of attestation, either with or without a blank space intervening, or shall follow or be after or under or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature shall be on a side or page or other portion of the paper or papers containing the will, whereon no clause or paragraph or disposing part of the will shall be written above the signature, or by the circumstance that there shall appear to be sufficient space on or at the corner of the preceding side or page or other portion of the same paper on which the will is written to contain the signature; and the enumeration of the above circumstances shall not restrict the generality of the above enactment, but no signature under the said Act or this Ordinance shall be operative to give effect to any disposition or direction which is underneath, or which follows it, nor shall it give effect to any disposition or direction inserted after the signature shall be made.

2. That the provisions of this Ordinance shall extend and be applied to every will already made, where administration or probate has not already been granted or ordered by the Civil Court, in consequence of the defective execution of such will, or when the property, not being within the jurisdiction of the said Civil Court, has not been possessed or enjoyed by some person or persons claiming to be entitled thereto, in consequence of the defective execution of such will, or the right thereto shall not have been decided to be in some other person or persons than the persons claiming under the will by a Court of competent jurisdiction, in consequence of the defective execution of such will.

CHARLES FITZGERALD,
GOVERNOR AND COMMANDER-IN-CHIEF.