

ORDINANCE No. 5 OF 1904.

AN ORDINANCE to provide for the Administration of the Trust Fund created under the Will of Pierre Louis De Saffon. A.D. 1904.

[4th May, 1904.]

WHEREAS Pierre Louis De Saffon, residing in the Colony of Demerary, by his last Will and Testament dated the 25th of February, 1784, made among other provisions, written in the French language, and which need not be stated herein, a provision of which the following is a translation:—

“ Lastly, I make and institute as my universal heirs and legatees of all my property after the accomplishment of all my aforesaid dispositions, 10 orphan children or half-orphans, natives of this Colony, without distinction of sex, but nevertheless of lawful wedlock, and who in case of the decease of one of them shall always be replaced by others, authorizing for this purpose the most Honourable Court of Justice of this Colony, upon information which will be given of their decease to the said Court by the testamentary executors hereinafter named, or their successors, praying the Court always to give preference to the poorest and the most necessitous, and those who are born of white parents, in favour of whom the clear and ascertained revenue of the said plantations shall be divided and the allowance from them they shall enjoy up to the age of 16 years, after which they will be replaced by others,” and the said testator, after nominating certain persons in his said will as the first recipients of his bounty under the provisions just stated, and after excluding in effect from his succession the Orphan Chamber in the said Colony, as well as that of any other place where he might be buried, or where his property might be situated, continued his will in the words of which the translation is as follows:—“ And for the execution of the present testament I appoint, name and institute Messrs. A. Albinus and the Chevalier de Cornet, inhabitants of this Colony, as my executors and as guardians of the said minors as far as regards the ownership of all that I shall leave at my death (the said legacies and any debts which I may have contracted being paid as well as the interest of the Mortgage) with the direction and administration of the said succession and of my burial, in case it should take place in this Colony. And besides with all such power that in case of death, departure or absence from the said Colony, or other sufficient incapacity of one of them, the other shall be obliged to substitute another competent person in the place of the one absent in case he had not himself named the said person, and so on perpetually, wishing and intending that at all times there should be two Administrator Guardians ”;

And whereas the said Pierre Louis De Saffon died on the 13th day of August, 1784, without having altered or revoked his said will, and the said will was duly deposited on the 18th day of August, 1784;

And whereas the provisions of the said will have been carried into effect by successive Administrator Guardians duly appointed under the directions contained in the said will and on any vacancy from time to time occurring, the Administrator Guardians for the time being reported such vacancy to the Judges of the Supreme Court for the time being and the said Judges thereupon appointed a legatee to fill such vacancy;

And whereas a vacancy among the said legatees was reported to the Judges of the Supreme Court of British Guiana on the 24th of February, 1896, and the said Judges on the 24th of February, 1896, declined to take any part in filling such vacancy or any vacancy that might thereafter occur among the legatees appointed under the said will:

And whereas, G. H. Hawtayne, the Administrator General, and Emanuel J. Northey Thomas, then the Administrator Guardians of the estate of the said Pierre Louis De Saffon, on the 4th day of March, 1896, presented a petition to the Governor-in-Council setting forth (among other things) the facts hereinbefore stated, and praying that an Ordinance might be passed to provide for the carrying out of the intentions of the said testator;

And whereas the De Saffon Trust Ordinance, 1896, was passed in pursuance of the prayer of the said petition, which said Ordinance was amended by the De Saffon Trust Ordinance, 1896, Amendment Ordinance, 1898;

And whereas, the property subject to the provisions of the said will, has been diminished by certain losses since the passing of the said Ordinances;

And whereas the property now subject to the provisions of the said will, hereinafter called "the De Saffon Estate," is the property set forth in the Schedule to this Ordinance; and it is expedient to make further provision for the administration of the same and for carrying into effect the will of the said Pierre Louis De Saffon:

Be it therefore enacted by the Governor of British Guiana, with the advice and consent of the Court of Policy thereof, as follows:—

Short title.

1. This Ordinance may be cited as the De Saffon Trust Ordinance, 1904.

Interpretation.

2. In this Ordinance "the De Saffon Estate" means the property set forth in the Schedule to this Ordinance and all accumulations of the same.

Accounting of Administrator Guardians.

3. The present or any future Administrator Guardians appointed under the said will, or as hereinafter provided, shall administer the De Saffon Estate and shall receive therefor a commission of five per centum on all revenue arising from the said estate and shall account every year to the Supreme Court for their administration thereof.

Filling of vacancies among the heirs and legatees.

4.--(1) The Administrator Guardians shall report to the Governor every vacancy which is about to occur or has occurred in the number of the heirs and legatees appointed under the said Will.

(2) Such report shall, if possible, be made three months before such vacancy is likely to occur.

(3) On receipt of such report, a notice shall be inserted at the expense of the De Saffon fund in the *Gazette* and one other newspaper for three successive Saturdays, stating that the vacancy reported is about to occur, or has occurred, and requiring applications from or on behalf of natives of the County of Demerara for nomination to such vacancy to be sent to the Government Secretary by a given date together with the information specified in such notice.

(4) The Governor-in-Council shall consider the applications received and shall nominate a child to fill the said vacancy, and notice of such nomination shall without delay be given to the Administrator Guardians.

5.—(1) The Administrator Guardians shall provide for the proper maintenance and education of every heir and legatee and for this purpose may at their discretion permit any heir and legatee to reside with his surviving parent or guardian (if any), or may place such heir and legatee under the care and tutelage of some fit and proper person in British Guiana selected or approved of by them. The parent or guardian, or such fit and proper person as aforesaid shall maintain and educate such heir and legatee in such manner as the Administrator Guardians may approve. The Administrator Guardians shall allow such parent or guardian such sum as they think fit for the maintenance and education of such heir and legatee, and shall pay such other person as aforesaid such remuneration as may be agreed upon between them and such person:

Admini-
stration of
the estate.

Provided (1) that the Administrator Guardians shall not place heirs and legatees of different sex under the care and tutelage of the same person, and (2) they may in their discretion permit any heir and legatee to reside with his surviving parent or guardian during vacation, and in any such case shall allow such parent or guardian such sum for the maintenance of the heir and legatee as they think fit:

Provided, further, that the parent or guardian of any heir may appeal to the Governor-in-Council against any order of the Administrator Guardians as to the care and tutelage of such heir, and the Governor-in-Council may make such order as he thinks fit as to the person in whose care and tutelage such heir shall be placed.

(2) The annual revenue of the De Saffon Estate, after deducting therefrom the cost of administration as hereinbefore provided, and the sum of two per centum for the reserve fund as hereinafter provided, shall be divided into ten equal parts, and each heir and legatee shall be deemed entitled to one-tenth of the net revenue of the said estate, which accrues from the time when he is nominated as an heir and legatee until he attains the age of sixteen years or sooner dies.

(3) The Administrator Guardians shall not expend in any year more than two-thirds of the sum to which any heir and legatee shall be entitled under the last preceding sub-section upon the education and maintenance of such heir, and the residue of the said sum shall be accumulated for his benefit, and may be in any subsequent year applied by the Administrator Guardians for his maintenance, education, or advancement, notwithstanding that he may have

attained the age of sixteen years: Provided that if any heir and legatee die before he attains the age of twenty-one years, any sum so accumulated for his benefit, and unexpended at the time of his death, shall be paid into the Reserve Fund hereinafter established.

(4) The Administrator Guardians shall, on application, furnish every heir with a statement of account, and of the moneys due to such heir, on such heir attaining the age of twenty-one.

6.—(1) The Administrator Guardians shall give the surviving parent (if any) of any child nominated as an heir and legatee, or if there is no such parent, or he is absent from the Colony, the person in whose custody such child is, notice in writing of every regulation or direction of the Administrator Guardians as to the maintenance or education of such child.

(2) Such notice shall be given without delay after the making of such regulation or direction, or after the decision of the Administrator Guardians to apply any general regulation to the case of such child, or in cases where such regulation or direction has been made, or such decision arrived at before the commencement of this Ordinance without delay after such commencement.

(3) If such notice is not complied with within seven days, the Administrator Guardians shall forthwith report the fact to the Governor-in-Council, and the Governor-in-Council may cancel the nomination of such child as such heir and legatee.

7.—(1) A Reserve Fund is hereby established, and the Administrator Guardians shall pay into the said fund the following sums:—

- (a) A sum equal to two per centum of the annual revenue of the De Saffon Estate every year;
- (b) The sum accumulated for any heir or legatee who dies before attaining the age of twenty-one years, as hereinbefore provided;
- (c) One tenth of the revenue of the De Saffon Estate for every vacancy in the number of heirs and legatees accruing during the period of such vacancy.

(2) All moneys accruing to the Reserve Fund from time to time shall be invested as hereinafter provided by the Administrator Guardians, and the interest thereof in any year may be applied to making good any loss in the interest receivable on the investments of the De Saffon Estate, and, if not so applied, shall be invested at interest, and the capital of the said fund, and the accumulations of interest thereon, may be applied in making good any loss of capital which may be sustained by the De Saffon Estate. The securities of the fund shall be deposited for safe keeping with the Receiver General.

(3) If the Reserve Fund becomes of such amount, that in the opinion of the Governor-in-Council, no further accumulation of interest is necessary, the interest thereon may be applied in all respects as if it formed part of the interest of the original De Saffon Estate, and the number of orphans to be benefited shall be proportionately increased.

Enforcement of regulations, etc., as to maintenance and education of the heirs and legatees.

Reserve Fund:

