

Wills Act Amendment Act 1852

LAWS OF THE UNITED KINGDOM

THE WILLS ACT AMENDMENT ACT, 1852.

(15 & 16 Vict. c. 24.)

An Act for the Amendment of the Wills Act, 1837. [1107]

[17th June, 1852.]

[*Preamble.*]

1. Position of the testator's signature.-Where by the Wills Act, 1837, 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 Act, 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 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 bottom 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 Act 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. [1108]

This section modifies the effect of the words at the "foot or end" in s. 9 of the Wills Act, 1837 (c. 26), p. 441, ante ; see the notes to that section.

"At."-See *In the Goods of Woodley* (1864), 3 Sw. & Tr. 429; *Trott and Trott v. Skidmore* (1860), 2 Sw. & Tr. 12.

"After or following."-See *In the Goods of Wright* (1865), 4 Sw. & Tr. 35; *In the Goods of Grans* (1923), 128 L.T. 669.

"Under or beside."-See *In the Goods of Jones* (1865), 4 Sw. & Tr. 1; *In the Goods of Stoakes* (1874), 31 L.T. 552; *In the Goods of Ainsworth* (1870), L.R. 2 P. & D. 151; *In the Goods of Osborne* (1909), 25 T.L. 519, and *In the Goods of Hughes* (1887), 12 P. & D. 107.

"Opposite to the end."-See *In the Goods of Williams* (1865), L.R. 1 P. & D. 4, and *Royle v. Harris*, [1895] P. 163. In some cases words which are physically beneath- either wholly or

partially-the signature have been considered to be above it either by reason of the mode of writing (*In the Goods of Ainsworth (supra)*) or by reason of the use of asterisks or other signs of interpolation. Where the court is satisfied that the testator's signature really follows the dispositive part of a testamentary paper, though it may occupy a place in the paper literally above the dispositive part, such part may be admitted to probate (*In the Goods of Gilbert* (1898) 78 L.T. 762). See also *Palin v. Pointing and Another* (1930), 46 T.L.R. 310. But the mere fact that the executed part of the will terminates with an incomplete sentence continued overleaf is not sufficient to justify the admission of the words following the signature to probate (*In the Goods of Gee* (1898), 78 L.T. 843), and see *In the Goods of Martin*, [1928] N.I. 138. As to place of signature generally, see Halsbury's Laws of England, Vol. 28, pp. 519 *et seq.*, and the English and Empire Digest, Vol. 41, pp. 251 *et seq.*

2. Act to extend to certain wills already made.-The provisions of this Act shall extend and be applied to every will already made, where administration or probate has not already been granted or ordered by a court of competent jurisdiction in consequence of the defective execution of such will, or where the property, not being within the jurisdiction of the ecclesiastical courts, 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. [1109]

3. Interpretation of "will."-The word "will" shall in the construction of this Act be interpreted in like manner as the same is directed to be interpreted under the provisions in this behalf contained in the Wills Act, 1837. [1110]

As to the meaning of the word " will," see the Wills Act, 1837 (c. 26), s. 1, p. 430, *ante*.

4. Short title.-This Act may be cited as the Wills Act Amendment Act, 1852. [1111]
