The expression "municipal authority" shall be construed to mean the town council of any borough for the time being subject to the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, entitled "An Act for the Regulation of Municipal Corporations in Ireland," and any commissioners invested by any general or local Act of Parliament, with power of improving, cleansing, lighting, or paving any town or township.

CHAPTER 87.

An Act to simplify Titles and facilitate the Transfer of Land in England.

[13th August 1875.]

WHEREAS it is expedient to make further provision for the simplification of the title to land, and for facilitating the transfer of land, in England:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

PRELIMINARY.

Short title.

1. This Act may be cited as The Land Transfer Act, 1875.

Application of Act.

2. This Act shall not apply to Scotland or Ireland, and land shall not be registered under this Act unless it is of freehold tenure or is leasehold held under a lease which is either immediately or mediately derived out of land of freehold tenure; but for the purposes of this Act customary freehold, in any case in which an admission or any act by the lord of the manor is necessary to perfect the title of a purchase from the customary tenant, shall not be deemed to be land of freehold tenure.

Commencement of Act.

3. This Act shall come into operation on the 1st day of January 1876, which day is in this Act referred to as the commencement of this Act; but any orders or rules, and any appointment to any office, may be made under this Act at any time after the passing thereof, but shall not take effect until the commencement of this Act.

Construction of terms in Act.

4. In this Act, unless there is something inconsistent in the context,—

"Person" includes a corporation and any body of persons unincorporate:

"Registrar," "court," and "general rules," means such "registrar," "court," and "general rules," as are in this Act respectively in that behalf mentioned:

"Prescribed" means prescribed by any general rules made in pursuance of this Act:

"The Court of Chancery," and "Court of Appeal in Chancery," and "Her Majesty's Superior Courts," include any courts in which the powers of the Courts so referred to by name, may be for the time being vested:

"The Land Registry Act, 1862," means the Act passed in the session held in the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter fifty-three, intituled "An Act to facilitate the proof of title to and the conveyance "of real estates."

The definition of land contained in the Act of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter twenty-one, intituled "An Act for shortening "the language used in Acts of Parliament," shall not apply to this Act.

PART I.

PART I. *Entry of Land on Register of Title.*

Entry of Land on Register of Title.

(1.) *Freehold Land.*

Application for registration with an absolute title, or with a possessory title only.

5. A land registry shall be established, and on and after the commencement of this Act the following persons; (that is to say,)

(1.) Any person who has contracted to buy for his own benefit an estate in fee simple in land, whether subject or not to incumbrances; and

(2.) Any person entitled for his own benefit at law or in equity to an estate in fee simple in land, whether subject or not to incumbrances; and

(3.) Any person capable of disposing for his own benefit by way of sale of an estate in fee simple in land, whether subject or not to incumbrances,

may apply to the registrar under this Act to be registered, or to have registered in his stead any nominee or nominees not exceeding the prescribed number, as proprietor or proprietors of such freehold land with an absolute title or with a possessory title only: Provided, that in the case of land contracted to be bought, the vendor consents to the application.

Evidence of title required on application.

6. Where an absolute title is required the applicant or his nominee shall not be registered as proprietor of the fee simple until and unless the title is approved by the registrar.

Where a possessory title only is required the applicant or his nominee may be registered as proprietor of the fee simple on giving such evidence of title and serving such notices, if any, as may for the time being be prescribed.

Estate of first registered proprietor with absolute title.

7. The first registration of any person as proprietor of freehold land, (in this Act referred to as first registered proprietor,) with an absolute title, shall vest in the person so registered an estate in fee simple in such land, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows:

(1.) To the incumbrances, if any, entered on the register; and

(2.) Unless, under the provisions of this Act, the contrary is expressed on the register, to such liabilities, rights, and interests, if any, as are by this Act declared not to be incumbrances; and

(3.) Where such first proprietor is not entitled for his own benefit to the land registered as between himself and any persons claiming under him, to any unregistered estates, rights, interests, or equities to which such persons may be entitled,

but free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors.

Estate of first registered proprietor with possessory title.

8. The registration of any person as first registered proprietor of freehold land with a possessory title only shall not affect or prejudice the enforcement of any estate, right, or interest adverse to or in derogation of the title of such first registered proprietor, and subsisting or capable of arising at the time of registration of such proprietor; but, save as aforesaid, shall have the same effect as registration of a person with an absolute title.

A qualified title may be registered in certain cases.

9. Where an absolute title is required, and on the examination of the title it appears to the registrar that the title can be established only for a limited period, or subject to certain reservations, the registrar may, on the application of the party applying to be registered, by an entry made in the register, except from the effect of registration any estate, right, or interest arising before a specified date, or arising under a specified instrument or otherwise particularly described in the register, and a title registered subject to such excepted estate, right, or interest shall be called a qualified title, and the registration of a person as first registered proprietor of land with a qualified title shall have the same effect as the registration of such person with an absolute title, save that registration with a qualified title shall not affect or prejudice the enforcement of any estate, right, or interest appearing by the register to be excepted.

PART I. *Entry of Land on Register of Title.*

Land certificate given on registration.

10. On the entry of the name of the first registered proprietor of freehold land on the register, the registrar shall, if required by such proprietor, deliver to him a certificate, in this Act called a land certificate, in the prescribed form; the certificate shall state whether the title of the proprietor therein mentioned is absolute, qualified, or possessory.

(2.) *Leasehold Land.*

Application for registration with or without a declaration of title of lessor to grant lease.

11. A separate register shall be kept of leasehold land, and on and after the commencement of this Act any of the following persons; that is to say,

(1.) Any person who has contracted to buy for his own benefit leasehold land held under a lease for a life or lives, or determinable on a life or lives, or for a term of years of which more than twenty-one are unexpired, whether subject or not to incumbrances; and

(2.) Any person entitled for his own benefit, at law or in equity, to leasehold land held under any such lease as is described in this section, whether subject or not to incumbrances; and

(3.) Any person capable of disposing for his own benefit by way of sale of leasehold land held under any such lease as is described in this section, whether subject or not to incumbrances;

may apply to the registrar to be registered, or to have registered in his stead any nominee or nominees not exceeding the prescribed number, as proprietor or proprietors of such leasehold land, with the addition where the lease under which the land is held is derived immediately out of freehold land, and the applicant is able to submit for examination the title of the lessor, of a declaration of the title of the lessor to grant the lease under which the land is held:

Provided,—

That in the case of leasehold land contracted to be bought, the vendor consents to the application.

Every applicant for registration of leasehold land shall deposit with the registrar the lease of the land in respect of which the application is made, or if such lease is proved to the satisfaction of the registrar to be lost a copy of such lease or of a counter-part thereof, verified to the satisfaction of the registrar; and such lease or attested copy is in this Act referred to as the registered lease.

Leasehold land held under a lease containing an absolute prohibition against alienation, shall not be registered in pursuance of this Act; and leasehold land held under a lease containing a prohibition against alienation without the license of some other person, shall not be registered under this Act until and unless provision is made in the prescribed manner for preventing alienation without such license by entry on the register of a restriction to that effect, or otherwise.

Evidence of title required on application.

12. An applicant or his nominee shall not be registered as proprietor of leasehold land until and unless the title to such land is approved by the registrar; and further, if he apply to be registered as proprietor of leasehold land with a declaration of the title of the lessor to grant the lease under which the land is held, until and unless the lessor, after an examination of his title by the registrar is declared to have had an absolute or qualified title to grant the lease under which the land is held.

Estate of first registered proprietor of leasehold land with a declaration of absolute title of lessor to grant lease.

13. The registration under this Act of any person as first registered proprietor of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held shall be deemed to vest in such person the possession of the land comprised in the registered lease relating to such land for all the leasehold estate therein described, with all implied or expressed rights, privileges, and appurtenances attached to such estate, but subject as follows:

(1.) To all implied and express covenants, obligations, and liabilities incident to such leasehold estate; and

(2.) To the incumbrances (if any) entered on the register; and

PART I. *Entry of Land on Register of Title.*

(3.) Unless the contrary is expressed on the register, to such liabilities, rights, and interests as affect the leasehold estate and are by this Act declared not to be incumbrances in the case of registered freehold land; and

(4.) Where such first proprietor is not entitled for his own benefit to the land registered as between himself and any persons claiming under him, to any unregistered estates, rights, interests, or equities to which such persons may be entitled,

but free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors.

Estate of first registered proprietor of leasehold land without a declaration of title of lessor to grant lease.

14. The registration of any person under this Act as first registered proprietor of leasehold land without a declaration of the title of the lessor shall not affect or prejudice the enforcement of any estate, right, or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but, save as aforesaid, shall have the same effect as the registration of any person under this Act as first registered proprietor of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held.

Lessor may be declared to have a qualified title to grant lease in certain cases.

15. Where an absolute title is required, and on the examination of the title of any lessor by the registrar it appears to him that the title of such lessor to grant the lease under which the land is held can be established only for a limited period or subject to certain reservations, the registrar may, by an entry made in the register, except from the effect of registration, any estate, right, or interest, arising before a specified date or arising under a specified instrument, or otherwise particularly described in the register; and a title of a lessor registered subject to such excepted estate, right, or interest is in this Act referred to as a qualified title; and the registration of a person as first registered proprietor of leasehold land with a declaration that the lessor had a qualified title to grant the lease under which the land is held shall have the same effect as the registration of such person with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that registration with the declaration of a qualified title shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.

Office lease given on registration.

16. On the entry of the name of the first registered proprietor of leasehold land on the register, the registrar shall, if required by the proprietor, deliver to him a copy of the registered lease, in this Act called an office copy, authenticated in the prescribed manner, and there shall be endorsed thereon a statement whether any declaration, absolute or qualified, as to the title of the lessor has been made, and any other particulars relating to such lease entered in the register.

FREEHOLD AND LEASEHOLD LAND.

Regulations as to examination of title by registrar.

17. The examination by the registrar of any title under this Act shall be conducted in the prescribed manner, provided that—

(1.) Due notice shall be given, where the giving of such notice is prescribed, and sufficient opportunity be afforded to any persons desirous of objecting to come in and state their objections to the registrar; and

(2.) The registrar shall have jurisdiction to hear and determine any such objections, subject to an appeal to the Court in the prescribed manner and on the prescribed conditions; and

(3.) If the registrar, upon the examination of any title, is of opinion that the title is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of such title, or may require the applicant to apply to the court, upon a statement signed by the registrar, for its sanction to the registration; and

(4.) The registrar may accept as evidence recitals, statements, and descriptions of facts, matters, and parties in deeds, instruments, or statutory declarations not less than twenty years old.

Liability of registered and to easements

18. All registered land shall, unless under the provisions of this Act the contrary is expressed on the register, be deemed to be subject to such of the following liabilities,

PART I. *Entry of Land on Register of Title.*

and certain other rights.

rights, and interests as may be for the time being subsisting in reference thereto, and such liabilities, rights, and interests shall not be deemed incumbrances within the meaning of this Act; (that is to say,)

(1.) Liability to repair highways by reason of tenure, quitrents, crown rents, heriots, and other rents and charges having their origin in tenure; and

(2.) Succession duty, land tax, tithe rentcharge, and payments in lieu of tithes, or of tithe rentcharge; and

(3.) Rights of common, rights of sheepwalk, rights of way, watercourses, and rights of water, and other easements; and

(4.) Rights to mines and minerals; and

(5.) Rights of entry, search, and user, and other rights and reservations incidental to or required for the purpose of giving full effect to the enjoyment of rights to mines and minerals, or of property in mines or minerals; and

(6.) Rights of fishing and sporting, seignorial and manorial rights of all descriptions, and franchises, exerciseable over the registered lands; and

(7.) Leases or agreements for leases and other tenancies for any term not exceeding twenty-one years, or for any less estate, in cases where there is an occupation under such tenancies:

Provided as follows:

(*a.*) Where it is proved to the satisfaction of the registrar that any land registered or about to be registered is exempt from land tax or tithe rentcharge, or from payments in lieu of tithes, or of tithe rentcharge, the registrar may notify the fact on the register in the prescribed manner; and

(*b.*) The Commissioners of Inland Revenue shall, upon the application of the proprietor of any land registered or about to be registered upon such declaration being made, or such other evidence being produced as the commissioners require, and upon payment of the prescribed fee, grant a certificate that at the date of the grant thereof no succession duty is owing in respect of such land, and the registrar shall in the prescribed manner notify such fact on the register, and such notification shall be conclusive evidence of the fact so notified in respect of succession duty; and

(*c.*) Where it is proved to the satisfaction of the registrar that the right to any mines or minerals is vested in the proprietor of land registered or about to be registered, the registrar may register such proprietor in the prescribed manner as proprietor of such mines and minerals as well as of the land; and

(*d.*) Where it is proved to the satisfaction of the registrar that the right to any mines or minerals is severed from any land registered or about to be registered, the registrar may on the application of the person entitled to any such mines and minerals register him as proprietor of such mines and minerals in manner hereafter in this Act mentioned, and upon such registration being effected shall enter on the register of the land a reference to the registration of such other person as proprietor of such mines and minerals.

Where the existence of any such liabilities, rights, or interests, as are mentioned in this section, is proved to the satisfaction of the registrar, the registrar may, if he think fit, enter on the register notice of such liabilities, rights, or interests in the prescribed manner.

Discharge of incumbrance.

19. Where upon the first registration of any freehold or leasehold land, notice of an incumbrance affecting such land has been entered on the register, the registrar shall, on proof to his satisfaction of the discharge of such incumbrance, notify in the prescribed manner on the register by cancelling the original entry or otherwise the cessation of such incumbrance.

Determination of lease.

20. The registrar shall, on proof to his satisfaction of the determination of any lease of registered leasehold land, notify in the prescribed manner on the register the determination of such lease.

No acquisition of title by

21. A title to any land adverse to or in derogation of the title of the registered proprietor shall not be acquired by any length of possession, but this section shall not

prejudice, as against any person registered as first proprietor of land with a possessory title only, any adverse claim in respect of length of possession of any other person who was in possession of such land at the time when the registration of such first proprietor took place. adverse possession.

PART II.

PART II. *Registered Dealings with Registered Land.*

REGISTERED DEALINGS WITH REGISTERED LAND.

Mortgage of Registered Land.

22. Every registered proprietor of any freehold or leasehold land may in the prescribed manner charge such land with the payment at an appointed time of any principal sum of money either with or without interest, and with or without a power of sale to be exercised at or after a time appointed. The charge shall be completed by the registrar entering on the register the person in whose favour the charge is made as the proprietor of such charge, and the particulars of the charge, and of the power of sale, if any; the registrar shall also, if required, deliver to the proprietor of the charge a certificate of charge in the prescribed form. Creation of charges, and delivery of certificate of charge.

23. Where a registered charge is created on any land there shall be implied on the part of the person being registered proprietor of such land at the time of the creation of the charge, his heirs, executors, and administrators, unless there be an entry on the register negativing such implication, a covenant with the registered proprietor for the time being of the charge to pay the principal sum charged, and interest, if any, thereon, at the appointed time and rate; also a covenant, if the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate on so much of the principal sum as for the time being remains unpaid. Implied covenant to pay charges.

24. Where a registered charge is created on any leasehold land there shall be implied on the part of the person being registered proprietor of such land at the time of the creation of the charge, his heirs, executors, and administrators, unless there be an entry on the register negativing such implication, a covenant with the registered proprietor for the time being of the charge, that the person being registered proprietor of such land at the time of the creation of the charge, his executors, administrators, and assigns, will pay, perform, and observe the rent, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed, and will keep the proprietor of the charge, his heirs, executors, and administrators, indemnified against all actions, suits, expenses, and claims, on account of the non-payment of the said rent, or any part thereof, or the breach of the said covenants or conditions, or any of them. Implied covenant in case of leaseholds to pay rent, &c., and indemnify proprietor of charge.

25. Subject to any entry to the contrary on the register, the registered proprietor of a registered charge may, for the purpose of obtaining satisfaction of any moneys due to him under the charge, at any time during the continuance of his charge, enter upon the land charged, or any part thereof, or into the receipt of the rents and profits thereof, subject nevertheless to the right of any persons appearing on the register to be prior incumbrancers, and to the liability attached to a mortgagee in possession. Entry by proprietor of charge.

26. Subject to any entry to the contrary on the register, the registered proprietor of a registered charge may enforce a foreclosure or sale of the land charged, in the same manner and under the same circumstances in and under which he might enforce the same if the land had been transferred to him by way of mortgage, subject to a proviso for redemption on payment of the money named at the appointed time. Foreclosure by proprietor of charge.

27. Subject to any entry to the contrary on the register, the registered proprietor of a registered charge with a power of sale may, at any time after the expiration of the appointed time, sell and transfer the land on which he has a registered charge, or any part thereof, in the same manner as if he were the registered proprietor of such land. Remedy of proprietor of charge with a power of sale.

PART II. *Registered Dealings with Registered Land.*

Priority and discharge of registered charges.

28. Subject to any entry to the contrary on the register, registered charges on the same land shall as between themselves rank according to the order in which they are entered on the register, and not according to the order in which they are created.

The registrar shall, on the requisition of the registered proprietor of any charge, or on due proof of the satisfaction thereof, notify on the register in the prescribed manner by cancelling the original entry or otherwise the cessation of the charge, and thereupon the charge shall be deemed to have ceased.

Transfer of Freehold Land.

Transfer of freehold land, and delivery of land certificate.

29. Every registered proprietor of freehold land may, in the prescribed manner, transfer such land or any part thereof. The transfer shall be completed by the registrar entering on the register the transferee as proprietor of the land transferred, but until such entry is made the transferor shall be deemed to remain proprietor of the land.

Upon completion of the registration of the transferee the registrar shall, if required, deliver to him a land certificate in the prescribed form; he shall also, in cases where part only of the land is transferred, if required, deliver to the transferor a land certificate, containing a description of the land retained by him.

Estate of transferee for valuable consideration of freehold land with absolute title.

30. A transfer for valuable consideration of freehold land registered with an absolute title shall, when registered, confer on the transferee an estate in fee simple in the land transferred, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows:

(1.) To the incumbrances, if any, entered on the register; and

(2.) Unless the contrary is expressed on the register, to such liabilities, rights, and interests, if any, as are by this Act declared not to be incumbrances,

but free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors.

Estate of transferee for valuable consideration of freehold land with qualified title.

31. A transfer for valuable consideration of freehold land registered with a qualified title shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with an absolute title, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.

Estate of transferee for valuable consideration of freehold land with possessory title.

32. A transfer for valuable consideration of freehold land registered with a possessory title shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered proprietor, and subsisting or capable of arising at the time of the registration of such proprietor; but, save as aforesaid, shall when registered have the same effect as a transfer for valuable consideration of the same land registered with an absolute title.

Estate of voluntary transferee of freehold land.

33. A transfer of freehold land made without valuable consideration shall, so far as the transferee is concerned, be subject to any unregistered estates, rights, interests, or equities subject to which the transferor held the same, but, save as aforesaid, shall, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee, have the same effect as a transfer of the same land for valuable consideration.

Transfer of Leasehold Land.

Transfer of leasehold land, and delivery of office lease.

34. Every registered proprietor of leasehold land may, in the prescribed manner, transfer the whole of his estate in such land or in any part thereof. The transfer shall be completed by the registrar entering on the register the transferee as proprietor of the land transferred, but until such entry is made the transferor shall be deemed to remain proprietor of the land.

Upon completion of the registration of the transferee, if the transfer includes the whole of the land comprised in the registered lease relating to such land, the transferee shall be entitled to the office copy of the registered lease; but if a part only is transferred, the registrar shall, if required, according to any agreement that may have been entered into

between the transferor and transferee, deliver to the one the office copy of the registered lease and to the other a fresh office copy of such lease, each of such copies showing by endorsement or otherwise the parcels of which the person to whom such copy is delivered is the registered proprietor.

PART II. *Registered Dealings with Registered Land.*

Estate of transferee for valuable consideration of leasehold land with a declaration of absolute title of lessor.

35. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held shall, when registered, be deemed to vest in the transferee the possession of the land transferred for all the leasehold estate described in the registered lease relating to such land, with all implied or expressed rights, privileges, and appurtenances attached to such estate, but subject as follows:

(1.) To all implied and express covenants, obligations, and liabilities incident to such estate; and

(2.) To the incumbrances (if any) entered on the register; and

(3.) Unless the contrary is expressed on the register, to such liabilities, rights, and interests as affect the leasehold estate and are by this Act declared not to be incumbrances in the case of registered freehold land;

but free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors.

Estate of transferee for valuable consideration of leasehold land with a declaration of qualified absolute title of lessor.

36. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had a qualified title to grant the lease under which the land is held shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted from the effect of registration.

Estate of transferee for valuable consideration of leasehold land without a declaration of title of lessor.

37. A transfer for valuable consideration of leasehold land registered without a declaration of the title of the lessor shall not affect the enforcement of any estate, right, or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but, save as aforesaid, shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held.

Estate of voluntary transferee of leasehold land.

38. A transfer of leasehold land made without valuable consideration shall, so far as the transferee is concerned, be subject to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but, save as aforesaid, shall, when registered, in all respects and in particular as respects any registered dealings on the part of the transferee, have the same effect as a transfer of the same land for valuable consideration.

Implied covenants on transfer of leasehold estates.

39. On the transfer of any leasehold land under this Act, unless there be an entry on the register negativing such implication, there shall be implied as follows; (that is to say,)

(1.) On the part of the transferor a covenant with the transferee that, notwithstanding anything by such transferor done, omitted, or knowingly suffered, the rent, covenants, and conditions reserved and contained by and in the registered lease, and on the part of the lessee to be paid, performed, and observed, have been so paid, performed, and observed up to the date of the transfer; and

(2.) On the part of the transferee a covenant with the transferor, that he, the transferee, his executors, administrators, or assigns, will pay, perform, and observe the rent, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed, and will keep the transferor, his heirs, executors, and administrators, indemnified against all actions, suits, expenses, and claims on account of the nonpayment of the said rent or any part thereof, or the breach of the said covenants or conditions, or any of them.

PART II. *Registered Dealings with Registered Land.*

Transfer of Charges.

Transfer of charges on register.

40. The registered proprietor of any charge may, in the prescribed manner, transfer such charge to another person as proprietor. The transfer shall be completed by the registrar entering on the register the transferee as proprietor of the charge transferred; the registrar shall also, if required, deliver to the transferee a fresh certificate of charge, but the transferor shall be deemed to remain proprietor of such charge until the name of the transferee is entered on the register in respect thereof.

Transmission of Land and Charges.

Transmission on death of freehold land.

41. On the death of the sole registered proprietor, or of the survivor of several joint registered proprietors of any freehold land, such person shall be registered as proprietor in the place of the deceased proprietor or proprietors as may on the application of any person interested in the land, be appointed by the registrar, regard being had to the rights of the several persons interested in such land, and in particular to the selection of such person as may for the time being appear to the registrar to be entitled, according to law to be so appointed, subject to an appeal to the court in the prescribed manner by any person aggrieved by any order of the registrar under this section.

Transmission on death of leasehold land or of charge.

42. On the death of the sole registered proprietor, or of the survivor of several joint registered proprietors of any leasehold land or of any charge, the executor or administrator of such sole deceased proprietor, or of the survivor of such joint proprietors, shall be entitled to be registered as proprietor in his place.

Transmission on bankruptcy of land or charge.

43. Upon the bankruptcy of any registered proprietor of any land or charge, or on the liquidation of his affairs by arrangement, his trustee shall be entitled to be registered as proprietor in his place.

Effect of marriage of female proprietor of freehold land.

44. The husband of any female registered proprietor of freehold land may apply to be registered as co-proprietor with his wife, but he shall be described on the register as co-proprietor in right of his wife, and on his death in her lifetime the original registry of the wife, with a change if necessary in the name, shall revive, and confer the same rights as if her husband had never been registered as co-proprietor with her, subject nevertheless to any registered disposition which may have been made by the husband and wife in the meantime. If the husband survives the wife he shall not be entitled to be registered as sole proprietor of the land, but there shall be registered as co-proprietor with him if he is entitled as tenant by the curtesy, and as sole proprietor in place of himself and his deceased wife if he is not entitled as tenant by the curtesy, such person as may, on the application of any person interested in right of the wife, be appointed by the registrar, with power for the registrar on a like application to appoint from time to time another person or other persons in the event of any person registered as co-proprietor with the husband dying in his lifetime.

Any person aggrieved by any order of the registrar under this section may appeal to the court in the prescribed manner.

Effect of marriage of female proprietor of leasehold land or charge.

45. The husband of any female registered proprietor of leasehold land or of a charge may apply to be registered as proprietor in her place.

Nature of title of registered fiduciary proprietor.

46. Any person registered in the place of a deceased or bankrupt proprietor shall hold the land or charge in respect of which he is registered upon the trusts and for the purposes to which the same is applicable by law, and subject to any unregistered estates, rights, interests, or equities subject to which the deceased or bankrupt proprietor held the same; but, save as aforesaid, he shall in all respects, and in particular as respects any registered dealings with such land or charge, be in the same position as if he had taken such land or charge under a transfer for a valuable consideration.

Evidence of transmission of registered proprietorship.

47. The fact of any person having become entitled to any land or charge in consequence of the death or bankruptcy of any registered proprietor, or of the marriage of any female proprietor, shall be proved in the prescribed manner.

PART II. *Registered Dealings with Registered Land.*

Repeal and re-enactment (with amendments) of 37 & 38 Vict. c. 78. s. 5.; not to apply to registered lands.

48. Section five of the Vendor and Purchaser Act, 1874, shall be repealed on and after the commencement of this Act, except as to anything duly done thereunder before the commencement of this Act; and, instead thereof, be it enacted that upon the death of a bare trustee intestate as to any corporeal or incorporeal hereditament of which such trustee was seised in fee simple, such hereditament shall vest like a chattel real in the legal personal representative from time to time of such trustee; but the enactment by this section substituted for the aforesaid section of "The Vendor and Purchaser Act, 1874," shall not apply to lands registered under this Act.

PART III.

UNREGISTERED DEALINGS WITH REGISTERED LAND.

PART III. *Unregistered Dealings with Registered Land.*

Effect of unregistered dispositions.

49. The registered proprietor alone shall be entitled to transfer or charge registered land by a registered disposition; but, subject to the maintenance of the estate and right of such proprietor, any person, whether the registered proprietor or not of any registered land, having a sufficient estate or interest in such land, may create estates, rights, interests, and equities in the same manner as he might do if the land were not registered; and any person entitled to or interested in any unregistered estates, rights, interests, or equities in registered land may protect the same from being impaired by any act of the registered proprietor by entering on the register such notices, cautions, inhibitions, or other restrictions as are in this Act in that behalf mentioned.

The registered proprietor alone shall be entitled to transfer a registered charge by a registered disposition; but, subject to the maintenance of the right of such proprietor, unregistered interests in a registered charge may be created in the same manner and with the same incidents, so far as the difference of the subject-matter admits, in and with which unregistered estates and interests may be created in registered land.

Notice of Leases.

Lessee may apply for registration of notice of lease.

50. Any lessee or other person entitled to or interested in a lease or agreement for a lease of registered land made subsequently to the last transfer of the land on the register, where the term granted is for a life or lives, or is determinable on a life or lives, or exceeds twenty-one years, or where the occupation is not in accordance with such lease or agreement, may apply to the registrar to register notice of such lease or agreement in the prescribed manner, and when so registered every registered proprietor of the land, and every person deriving title through him, excepting proprietors of incumbrances registered prior to the registration of such notice, shall be deemed to be affected with notice of such lease or agreement as being an incumbrance on the land in respect of which the notice is entered.

Manner of registering notices of leases.

51. In order to register notice of a lease or agreement for a lease, if the registered proprietor of the land does not concur in such registry, the applicant shall obtain an order of the court, authorising the registration of notice of such lease or agreement, and shall deliver such order to the registrar, accompanied with the original lease or agreement or a copy thereof, and thereupon the registrar shall make a note in the register identifying the lease or agreement or copy so deposited, and the lease or agreement or copy so deposited shall be deemed to be the instrument of which notice is given; but if the registered proprietor concurs in such registry, notice may be entered in such manner as may be agreed upon.

Notice of Estates in Dower or by the Curtesy.

Registration of notices of estates in dower or by the curtesy.

52. Any person entitled to an estate in dower or by the curtesy in any registered land may apply in the prescribed manner to the registrar to register notice of such estate; and the registrar, if satisfied of the title of such person to such estate, shall register notice of the same accordingly in the prescribed form; and when so registered, such estate shall be an incumbrance appearing on the register, and shall be dealt with accordingly.

PART III. *Unregistered Dealings with Registered Land.*

Cautions against registered Dealings.

Caution against registered dealings how to be lodged.

53. Any person interested under any unregistered instrument, or interested as a judgment creditor, or otherwise howsoever, in any land or charge registered in the name of any other person, may lodge a caution with the registrar to the effect that no dealing with such land or charge be had on the part of the registered proprietor until notice has been served upon the cautioner.

The caution shall be supported by an affidavit or declaration made by the cautioner or his agent in the prescribed form, and containing the prescribed particulars.

Provided, that a person interested under a lease or agreement for a lease of which notice has been entered on the register, or entitled to an estate in dower, or estate by the curtesy, of which notice has been entered on the register, shall not be entitled to a caution in respect of such lease or estate in dower or by the curtesy.

Cautioner entitled to notice of proposed registered dealings.

54. After any such caution has been lodged in respect of any land or charge, the registrar shall not, without the consent of the cautioner, register any dealing with such land or charge until he has served notice on the cautioner, warning him that his caution will cease to have any effect after the expiration of the prescribed number of days next ensuing the date at which such notice is served; and after the expiration of such time as aforesaid the caution shall cease unless an order to the contrary is made by the registrar, and upon the caution so ceasing the land or charge shall be dealt with in the same manner as if no caution had been lodged.

Registered dealings delayed on bond being given.

55. If before the expiration of the said period the cautioner, or some other person on his behalf, appears before the registrar, and gives sufficient security to indemnify every party against any damage that may be sustained by reason of any dealing with the land or charge being delayed, the registrar may thereupon, if he thinks fit so to do, delay registering any dealing with the land or charge for such further period as he thinks just.

Compensation for improper lodging of caution.

56. If any person lodges a caution with the registrar without reasonable cause, he shall be liable to make to any person who may have sustained damage by the lodging of such caution such compensation as may be just, and such compensation shall be recoverable as a debt by the person who has sustained damage from the person who lodged the caution.

Any person aggrieved by any act done by the registrar in relation to cautions under this Act, may appeal to the court in the prescribed manner.

Inhibition against registered Dealings without Order of Court.

Power of court or registrar to inhibit registered dealings.

57. The court, or, subject to an appeal to the court, the registrar, upon the application of any person interested, made in the prescribed manner, in relation to any registered land or charge, may, after directing such inquiries (if any) to be made and notices to be given and hearing such persons as the court or registrar thinks expedient, issue an order or make an entry inhibiting for a time, or until the occurrence of an event to be named in such order or entry, or generally until further order or entry, any dealing with any registered land or registered charge.

The court or registrar may make or refuse to make any such order or entry, and annex thereto any terms or conditions the court or registrar may think fit, and discharge such order or cancel such entry when granted, with or without costs, and generally act in the premises in such manner as the justice of the case requires.

Any person aggrieved by any act done by the registrar in pursuance of this section may appeal to the court in the prescribed manner.

Power of Registered Proprietor to impose Restrictions.

Power to place restrictions on register.

58. Where the registered proprietor of any land is desirous for his own sake, or at the request of some person beneficially interested in such land, to place restrictions on transferring or charging such land, such proprietor may apply to the registrar to make an entry in the register that no transfer shall be made of or charge created on such land,

unless the following things, or such of them as the proprietor may determine, are done; (that is to say,)

Unless notice of any application for a transfer or for the creation of a charge is transmitted by post to such address as he may specify to the registrar:

Unless the consent of some person or persons, to be named by such proprietor, is given to the transfer or the creation of a charge:

Unless some such other matter or thing is done as may be required by the applicant and approved by the registrar.

Registrar to enter restrictions in register.

59. The registrar shall thereupon, if satisfied of the right of the applicant to give such directions, make a note of such directions on the register, and no transfer shall be made or charge created except in conformity with such directions; but it shall not be the duty of the registrar to enter any of the above directions, except upon such terms as to payment of fees and otherwise as may be prescribed, or to enter any restriction that the registrar may deem unreasonable, or calculated to cause inconvenience; and any such directions may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the registry to be interested in such directions, and shall also be subject to be set aside by the order of the court.

PART IV.

PROVISIONS SUPPLEMENTAL TO FOREGOING PARTS OF ACT.

Caution against Entry of Land on Register.

Caution against registration of land.

60. Any person having or claiming such an interest in any land which is not already registered as entitles him to object to any disposition thereof being made without his consent, may lodge a caution with the registrar to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of such land.

Caution to be supported by affidavit.

61. The caution shall be supported by an affidavit or declaration in the prescribed form, stating the nature of the interest of the cautioner, the land to be affected by such caution, and such other matters as may be prescribed.

Cautioner entitled to notice of proposed registration of land.

62. After a caution has been lodged in respect of any land, which has not already been registered, registration shall not be made of such land until notice has been served on the cautioner to appear and oppose, if he thinks fit, such registration, and the prescribed time has elapsed since the date of the service of such notice, or the cautioner has entered an appearance, which may first happen.

Compensation for improper lodging of caution.

63. If any person lodges a caution with the registrar without reasonable cause, he shall be liable to make to any person who may have sustained damage by the lodging of such caution such compensation as may be just, and such compensation shall be deemed to be a debt due to the person who has sustained damage from the person who has lodged the caution.

Saving as to effect of caution.

64. A caution lodged in pursuance of this Act shall not prejudice the claim or title of any person, and shall have no effect whatever except as in this Act mentioned.

Crown Lands.

Facilities for registration of Crown lands.

65. With respect to land or any estate, right, or interest in land vested in Her Majesty, her heirs or successors, either in right of the Crown or of the Duchy of Lancaster, or otherwise, or vested in any public officer or body in trust for the public service, the public officer or body having the management thereof (if any), or, if none, then such person as Her Majesty, her heirs or successors, may by writing under her or their sign manual appoint, may represent the owner of such land, estate, right, or interest for all the purposes of this Act, and shall be entitled to such notices, and may make and enter any such

PART IV. *Provisions supplemental to foregoing Parts of Act.*

application or cautions, and do all such other acts, as any owner of land, or of any estate, right, or interest therein (as the case may be) is entitled to receive, make, enter, or do under this Act; and with respect to land or any estate, right, or interest in land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall for the time being, or as the personage for the time being entitled to the revenues and possessions of the Duchy of Cornwall, may in writing appoint, may act as and represent the owner of such land, estate, right, or interest for all the purposes of this Act, and shall be entitled to receive such notices, and may make and enter any such application or cautions, and do all such other acts as any owner of land or of any estate, right, or interest in land (as the case may be) is entitled to make, enter, or do under this Act.

Registry of land below high-water mark.

66. If it appears to the registrar that any land, application for registration whereof is made to him, comprises land below high-water mark at ordinary spring tides, he shall not register the land unless and until he is satisfied that at least one month's notice in writing of the application has been given to the Board of Trade; and in case of land in the county palatine of Lancaster, also to the proper officer of the Duchy of Lancaster; and in case of land in the counties of Cornwall or Devon, also to the proper officer of the Duke of Cornwall; and in all other cases also to the Commissioners of Her Majesty's Woods, Forests, and Land Revenues.

As to Proceedings on and before Registration.

Registration of lands of different tenures.

67. If it appears to the registrar that any land, application for registration whereof is made to him, comprises land of freehold tenure and also land of a tenure other than freehold intermixed and undistinguishable, he may, notwithstanding anything in this Act, register the land, but he shall enter notice on the register in such manner as he thinks fit of the facts relating to the tenure of the land, and the tenure of the portion of the land other than freehold shall remain unaffected by the registration.

Trustees may sell by medium of registry.

68. Any person holding land on trust for sale, and any trustee, mortgagee, or other person having a power of selling land, may authorise the purchaser to make an application to be registered as first proprietor with any title which a proprietor is authorised to be registered with under this Act, and may consent to the performance of the contract being conditional on his being so registered, or may himself apply to be registered as such proprietor with the consent of the persons (if any) whose consent is required to the exercise by the applicant of his trust or power of sale; and the amount of all costs, charges, and expenses properly incurred by such person in or about such application shall in all cases be ascertained and declared by the registrar, and shall be deemed to be costs, charges, and expenses properly incurred by such person in the execution of his trust or in pursuance of his power; and such person may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he shall not be liable to any account in equity in respect thereof.

Registration of part owners.

69. Any two or more persons entitled for their own benefit, concurrently or successively, or partly in one mode and partly in another, to such estates, rights, or interests in land as together make up such an estate as would, if vested in one person, entitle him to be registered as proprietor of the land, may (subject as in this Act mentioned with respect to the number of persons to be registered in respect of the same land) apply to the registrar to be registered as joint proprietors, in the same manner and with the same incidents, so far as circumstances admit, in and with which it is in this Act declared that any individual proprietor may be registered.

Instruments and facts affecting the title to be disclosed on registrations.

70. Before the completion of the registration of any land in respect of which an examination of title is required, the vendor and his solicitor, in cases where the applicant is a person who has contracted to buy such land, and in all other cases the applicant for registration and his solicitor, shall each, if required by the registrar, make an affidavit or declaration that to the best of his knowledge and belief all deeds, wills, and instruments of title, and all charges and incumbrances affecting the title to the land which is the subject of the application, and all facts material to such title, have been disclosed in the

course of the investigation of title made by the registrar. The registrar may require any person making an affidavit or declaration in pursuance of this section to state in his affidavit or declaration what means he has had of becoming acquainted with the several matters referred to in this section; and if the registrar is of opinion that any further or other evidence is necessary or desirable, he may refuse to complete the registration until such further or other evidence is produced.

Production of deeds.

71. When an application has been made to the registrar for the registration of any land, if any person has in his possession or custody any deeds, instruments, or evidences of title relating to or affecting such land, to the production of which the applicant, or any trustee for him is entitled, the registrar may require such person to show cause, within a time limited, why he should not produce such deeds, instruments, or evidences of title to the registrar, or otherwise, as the registrar may deem fit; and, unless cause is shown to the satisfaction of the registrar within the time limited, such deeds, instruments, and evidences of title may be ordered by the registrar to be produced at the expense of the applicant, at such time and place, and in such manner, and on such terms as the registrar thinks fit.

Any person aggrieved by any order of the registrar under this section may appeal in the prescribed manner to the court, which may annul or confirm the order of the registrar with or without modification.

If any person disobeys any order of the registrar made in pursuance of this section, the registrar may certify such disobedience to the court, and thereupon such person, subject to such right of appeal as aforesaid, may be punished by the court in the same manner in all respects as if the order made by the registrar were the order of the court.

Deeds to be marked with notice of registration.

72. A person shall not be registered as proprietor of land until, if required by the registrar, he has produced to him such documents of title as will in the opinion of the registrar, when stamped or otherwise marked, give notice to any purchaser or other person dealing with such land of the fact of the registration, and the registrar shall stamp or otherwise mark the same accordingly, or until he has otherwise satisfied the registrar that the fact of such registration cannot be concealed from a purchaser or other person dealing with the land.

Costs of application for registry.

73. All costs, charges, and expenses that are incurred by any parties in or about any proceedings for registration of land shall, unless the parties otherwise agree, be taxed by the taxing officer of the Court of Chancery as between solicitor and client, but the persons by whom and the proportions in which such costs, charges, and expenses are to be paid shall be in the discretion of the registrar, and shall be determined according to orders of the registrar, regard being had to the following provision; namely, that any applicant under this Act is liable primâ facie to pay all costs, charges, and expenses incurred by or in consequence of his application, except in a case where parties object whose rights are sufficiently secured without their appearance, or where any costs, charges, or expenses are incurred unnecessarily or improperly, and subject to this proviso, that any party aggrieved by any order of the registrar under this section may appeal in the prescribed manner to the court, which may annul or confirm the order of the registrar, with or without modification.

If any person disobeys any order of the registrar made in pursuance of this section, the registrar may certify such disobedience to the court, and thereupon such person, subject to such right of appeal as aforesaid, may be punished by the court in the same manner in all respects as if the order made by the registrar were the order of the court.

Doubtful Questions arising on Title.

Registrar may state case for court of law or direct issue.

74. Whenever, upon the examination of the title to any land the registrar entertains a doubt as to any matter of law or fact arising upon such title, he may, upon the application of any party interested in such land, refer a case for the opinion of any of Her Majesty's superior courts, with power for the court to direct an issue to be tried before any jury for the purpose of determining any fact; the registrar may also name the parties

PART IV. *Provisions supplemental to foregoing Parts of Act.*

to such case, and the manner in which the proceedings in relation thereto are to be brought before the court to which such case is referred.

Opinion of court or decision of jury, how far conclusive.

75. The opinion of any court to whom any case is referred by the registrar shall be conclusive on all the parties to such case, unless the court before whom such case is heard permits an appeal to be had.

Intervention of court in case of incapacitated persons.

76. Where any infants, married women, idiots, lunatics, persons of unsound mind, persons absent beyond seas, or persons yet unborn, are interested in the land in respect of the title to which any question arises as aforesaid, any other persons interested in such land may apply to "the court" as defined by this Act, for a direction that the opinion of the court to whom the case is referred under this Act shall be conclusively binding on such infants, married women, idiots, lunatics, persons of unsound mind, persons beyond the seas, or unborn persons.

Power of court to bind interests of incapacitated persons.

77. The court as defined by this Act shall hear the allegations of all parties appearing before it. It may disapprove altogether, or may approve, either with or without modification, of the directions of the registrar in respect to any case referred as to the title of land; it may also, if necessary, appoint a guardian or other person to appear on behalf of any infants, married women, idiots, lunatics, persons of unsound mind, persons absent beyond seas, or unborn persons; and if such court is satisfied that the interests of the persons labouring under disability, absent, or unborn, will be sufficiently represented in any case, it shall make an order declaring that all persons, with the exceptions (if any) named in the order, are to be conclusively bound, and thereupon all persons, with such exceptions (if any) as aforesaid, shall be conclusively bound by any decision of the court having cognizance of the case in which such persons are concerned.

As to Land Certificates, Office Copies of Leases, and Certificates of Charge.

Loss of land certificate, or certificate of charge, or office copy of lease.

78. If any land certificate or office copy of a registered lease or certificate of charge is lost, mislaid, or destroyed, the registrar may, upon being satisfied of the fact of such loss, mislaying, or destruction, grant a new land certificate or office copy or certificate of charge in the place of the former one.

Renewal of land certificate, or certificate of charge, or office copy of lease.

79. The registrar may, upon the delivery up to him of a land certificate or of an office copy of a registered lease or of a certificate of charge, grant a new land certificate or office copy of a lease or certificate of charge in the place of the one delivered up.

Land certificate, certificate of charge, and office copy of lease to be evidence.

80. Any land certificate or certificate of charge shall be primâ facie evidence of the several matters therein contained, and the office copy of a registered lease shall be evidence of the contents of the registered lease.

Effect of deposit of land certificate.

81. Subject to any registered estates, charges, or rights, the deposit of the land certificate in the case of freehold land, and of the office copy of the registered lease in the case of leasehold land, shall, for the purpose of creating a lien on the land to which such certificate or lease relates, be deemed equivalent to a deposit of the title deeds of the land.

Special Hereditaments.

Registry of advowsons and other special hereditaments.

82. The registrar may register the proprietor of any advowson, rent, tithes impropriate, or other incorporeal hereditament of freehold tenure, enjoyed in gross, also the proprietor of any mines or minerals where the same have been severed from the land, in the same manner and with the same incidents in and with which he is by this Act empowered to register land, or as near thereto as circumstances admit.

The registrar may also in the prescribed manner register any fee farm grant, or other grant, reserving rents or services to which the fee simple estate in any freehold land about to be registered or registered may be subject, with such particulars of the land or services, and the conditions annexed to the nonpayment or non-performance or otherwise of such rent and services as may be prescribed, and any record so made shall be conclusive evidence as to the rents, services, and conditions so recorded, and such fee simple estate as last aforesaid shall be subject thereto accordingly.

General Provisions.

PART IV. *Provisions supplemental to foregoing Parts of Act.*

83. The following enactments shall be made with respect to registration of title:

Enactments as to registration.

(1.) There shall not be entered on the register or be receivable by the registrar, any notice of any trust, implied, express, or constructive; and

(2.) No person shall be registered as proprietor of any undivided share in any land or charge, and a number of persons exceeding the prescribed number shall not be registered as proprietors of the same land or charge; and if the number of persons showing title exceeds such prescribed number, such of them not exceeding the prescribed number as may be agreed upon, or as the registrar may in case of difference decide, shall be registered as proprietors; and

(3.) Upon the occasion of the registry of two or more persons as proprietors of the same land or of the same charge, an entry may, with their consent, be made on the register, to the effect that when the number of such proprietors is reduced below a certain specified number, no registered disposition of such land or charge shall be made, except under the order of the court; and

(4.) Where land is registered in the names of husband and wife as co-proprietors, no registered disposition of such land shall take place until the wife, if alive, has been examined in the prescribed manner and has assented to such disposition after full explanation of her rights in the land and of the effect of the proposed disposition; and

(5.) Registered land shall be described in such manner as the registrar thinks best calculated to secure accuracy, but such description shall not be conclusive as to the boundaries or extent of the registered land; and

(6.) No alteration shall be made in the registered description of land, except under the order of the court or by way of explanation; but this provision shall not be construed to extend to registered dealings with registered land in separate parcels by the registered description although such land was originally registered as one estate; and

(7.) Previously to registering any proposed purchaser as first proprietor of any land or to registering any disposition of land, it shall be the duty of the registrar to ascertain that all such stamp duties have been satisfied as would be payable if the land had been conveyed by an unregistered disposition to such proposed purchaser, or the disposition to be registered had been an unregistered disposition:

(8.) The provisions of this Act with respect to the liability of registered land to succession duty and to the grant of a certificate by the Commissioners of Inland Revenue in respect of the exemption from succession duty, and to the notification of such exemption on the register, and to the effect of such notification, shall apply with the necessary variations to a registered charge under this Act.

Annexation of conditions to registered land.

84. Where any land is about to be registered, or any registered land is about to be transferred to a purchaser for valuable consideration, there may be registered as annexed thereto, subject to general rules and in the prescribed manner, a condition that such land or any specified portion thereof is not to be built on, or is to be or not to be used in a particular manner, or any other condition running with or capable of being legally annexed to land, and the first proprietor and every transferee, and every other person deriving title from him, shall be deemed to be affected with notice of such condition; nevertheless, any such condition may be modified or discharged by order of the court, on proof to the satisfaction of the court that such modification will be beneficial to the persons principally interested in the enforcement of such condition.

Registered lands to be within the Trustee Act, 1850.

85. All the provisions of the Trustee Act, 1850, and of any Act amending the same, shall apply to land and charges registered under this Act, but this enactment shall not prejudice the applicability to such land and charges of any provisions of such Acts relating to land or choses in action.

Indemnity of registrar.

86. The registrar shall not, nor shall the assistant registrar nor any person acting under his authority, or under any order or general rule made in pursuance of this Act, be

PART IV. *Provisions supplemental to foregoing Parts of Act.*

liable to any action, suit, or proceeding for or in respect of any act or matter bonâ fide done or omitted to be done in the exercise or supposed exercise of the powers of this Act, or any order or general rule made in pursuance of this Act.

As to Married Women.

Provision as to married women.

87. Where a married woman, entitled for her separate use, and not restrained from anticipation, is desirous of giving any consent, or becoming party to any proceeding under this Act, she shall be deemed to be an unmarried woman, but when any other married woman is desirous of giving any consent, or becoming party to any proceeding under this Act she shall be examined in the prescribed manner, and it shall be ascertained that she is acting freely and voluntarily, and the court may, where it sees fit, appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and may from time to time remove or change such next friend.

As to Infants and Lunatics.

Provision as to other persons under disability.

88. Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceeding in relation to any land or charge under this Act, is an infant, idiot, or lunatic, the guardian or committee of the estate respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such person respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act; where there is no guardian or committee of the estate of any such person as aforesaid, being infant, idiot, or lunatic, or where any person is of unsound mind or incapable of managing his affairs, but has not been found lunatic under an inquisition, it shall be lawful for the court to appoint a guardian of such person for the purpose of any proceedings under this Act, and from time to time to change such guardian.

As to Notices.

Address of persons on register.

89. Every person whose name is entered on the register as proprietor of land or of a charge, or as cautioner, or as entitled to receive any notice, or in any other character, shall furnish to the registrar a place of address in the United Kingdom.

Service of notices.

90. Every notice by this Act required to be given to any person shall be served personally, or sent through the post in a registered letter marked outside "Office of Land Registry," and directed to such person at the address furnished to the registrar, and unless returned, shall be deemed to have been received by the person addressed within such period, not less than seven days, exclusive of the day of posting, as may be prescribed.

Return of notices by post office.

91. Her Majesty's Postmaster General shall give directions for the immediate return to the registrar of all letters marked as aforesaid, and addressed to any person who cannot be found, and on the return of any letter containing any notice, the registrar shall act in the matter requiring such notice to be given in manner prescribed.

Purchasers not affected by omission to send notices.

92. A purchaser for valuable consideration shall not be affected by the omission to send any notice by this Act directed to be given, or by the non-receipt thereof.

Specific Performance.

Power of court in suit for specific performance.

93. Where a suit is instituted for the specific performance of a contract relating to registered land, or a registered charge, the court having cognizance of such suit may by summons, or by such other mode as it deems expedient, cause all or any parties who have registered estates or rights in such land or charge, or have entered up notices, cautions, or inhibitions against the same, to appear in such suit, and show cause why such contract should not be specifically performed, and the court may direct that any order made by the court in such suit shall be binding on such parties or any of them,

PART IV. *Provisions supplemental to foregoing Parts of Act.*

94. All costs incurred by any parties so appearing in a suit to enforce against a vendor specific performance of his contract to sell registered land or a registered charge shall be taxed as between solicitor and client, and unless the court otherwise orders, be paid by such vendor. Costs in suit for specific performance.

Rectification of the Register.

95. Subject to any estates or rights acquired by registration in pursuance of this Act, where any court of competent jurisdiction has decided that any person is entitled to any estate, right, or interest in or to any registered land or charge, and as a consequence of such decision such court is of opinion that a rectification of the register is required, such court may make an order directing the register to be rectified in such manner as it thinks just. Establishment of adverse title to land.

96. Subject to any estates or rights acquired by registration in pursuance of this Act, if any person is aggrieved by any entry made or by the omission of any entry from the register under this Act, or if default is made, or unnecessary delay takes place in making any entry in the register, any person aggrieved by such entry, omission, default, or delay may apply to the court in the prescribed manner for an order that the register may be rectified, and the court may either refuse such application with or without costs, to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register. Register to be rectified under order of court.

97. The registrar shall obey the order of any competent court in relation to any registered land on being served with such order or an official copy thereof. Registrar to obey orders of court.

As to Fraud.

98. Subject to the provisions in this Act contained with respect to registered dispositions for valuable consideration, any disposition of land or of a charge on land which if unregistered would be fraudulent and void, shall, notwithstanding registration, be fraudulent and void in like manner. Fraudulent dispositions.

99. If in the course of any proceedings before the registrar or the court in pursuance of this Act any person concerned in such proceedings as principal or agent, with intent to conceal the title or claim of any person, or to substantiate a false claim, suppresses, attempts to suppress, or is privy to the suppression of any document or of any fact, the person so suppressing, attempting to suppress, or privy to suppression, shall be guilty of a misdemeanor, and upon conviction on indictment shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour, or to be fined such sum not exceeding five hundred pounds as the court before which he is tried may award. Suppression of deeds and evidence.

100. If any person fraudulently procures, attempts to fraudulently procure, or is privy to the fraudulent procurement of any entry on the register, or of any erasure from the register or alteration of the register, such person shall be guilty of a misdemeanor, and upon conviction on indictment be liable to imprisonment for any term not exceeding two years, with or without hard labour, or to be fined such sum not exceeding five hundred pounds as the court before which he is tried may award; and any entry, erasure, or alteration so made by fraud, shall be void as between all parties or privies to such fraud. Certain fraudulent acts declared to be misdemeanors.

101. If any person in any affidavit or declaration required or authorised to be made for any purpose under this Act, or any order or general rules made in pursuance thereof, wilfully makes a false statement in any material particular, he shall be guilty of a misdemeanor, and upon conviction on indictment shall be liable to imprisonment, with or without hard labour, for any term not exceeding two years, or to be fined such sum not exceeding five hundred pounds as the court before which he is tried may award. False declarations.

102. No proceeding or conviction for any act declared by this Act to be a misdemeanor shall affect any remedy which any person aggrieved by such act may be entitled to, either at law or in equity. Saving of civil remedy.

Part IV. *Provisions supplemental to foregoing Parts of Act.*

Saving of obligation to make discovery.

103. Nothing in this Act contained shall entitle any person to refuse to make a complete discovery by answer in any legal proceeding, or to answer any question or interrogatory in any civil proceeding, in any court of law or equity, or in the courts of bankruptcy; but no answer to any such bill, question, or interrogatory shall be admissible in evidence against such person in any criminal proceeding under this Act.

Inspection of Register.

Inspection of documents.

104. Subject to such regulations and exceptions and to the payment of such sums as may be fixed by general rules, any person registered as proprietor of any land or charge, and any person authorised by any such proprietor, or by an order of the court, or by general rule, but no other person, may inspect and make copies of and extracts from any register or document in the custody of the registrar relating to such land or charge.

Saving Clause.

Saving clause as to escheat.

105. Nothing in this Act contained shall affect any right of Her Majesty to any escheat or forfeiture.

Part V. *Administration of Law and Miscellaneous.*

PART V.

Administration of Law and Miscellaneous.

(1.) *Office of Land Registry.*

Office of land registry, and appointment and payment of officers.

106. There shall be an office in London to be called the Office of Land Registry, the business of which shall be conducted by a registrar to be appointed by the Lord Chancellor, with such number of officers (namely, assistant registrars, clerks, messengers, and servants,) as the Lord Chancellor, with the concurrence of the Commissioners of Her Majesty's Treasury as to number, may from time to time appoint.

A person shall not be qualified to be appointed registrar unless he is a barrister of not less than ten years standing, and a person shall not be qualified to be appointed an assistant registrar unless he is either a barrister or solicitor or certificated conveyancer of not less than five years standing.

The registrar, assistant registrars, clerks, messengers, and servants shall receive such salaries or remuneration as the Commissioners of Her Majesty's Treasury may from time to time direct.

The salaries of the registrar, assistant registrar, clerks, messengers, and servants, and such incidental expenses of carrying this Act into effect as may be sanctioned by the Commissioners of Her Majesty's Treasury, shall be paid out of moneys provided by Parliament.

The Lord Chancellor may from time to time make regulations for the office of land registry, and for assigning the duties to the respective officers, and determining the acts of the registrar which may be done by the assistant registrar, and may from time to time revoke and alter any such regulations, and make new regulations. All such regulations for the time being in force shall have effect as if they were enacted in this Act.

Seal of office of land registry.

107. There shall be a seal for the office of land registry.

Registrar to frame and promulgate forms.

108. Subject to the provisions of this Act, the registrar shall conduct the whole business of registering land under this Act; he shall frame and cause to be printed and circulated or otherwise promulgated such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act.

Power of registrar to summon witnesses.

109. The registrar or any officer of the registry office authorised by him in writing may administer an oath or take a voluntary declaration in pursuance of the Acts in that behalf for any of the purposes of this Act, and the registrar may, by summons under the seal of the office, require the attendance of all such persons as he may think fit in relation to the registration of any title; he may also, by a like summons, require any person

having the custody of any map, survey, or book made or kept in pursuance of any Act of Parliament to produce such map, survey, or book for his inspection; he may examine upon oath any person appearing before him and administer an oath accordingly; and he may allow to every person summoned by him the reasonable charges of his attendance.

Any charges allowed by the registrar in pursuance of this section shall be deemed to be charges incurred in or about proceedings for registration of land, and may be dealt with accordingly.

Non-attendance or refusal to answer questions.

110. If any person, after the delivery to him of such summons as aforesaid, or of a copy thereof, wilfully neglects or refuses to attend in pursuance of such summons, or to produce such maps, surveys, books, or other documents as he may be required to produce under the provisions of this Act, or to answer upon oath or otherwise such questions as may be lawfully put to him by the registrar under the powers of this Act, he shall incur a penalty not exceeding twenty pounds, to be recovered on summary conviction; provided that no person shall be required to attend in obedience to any summons or to produce such documents as aforesaid unless the reasonable charges of his attendance and of the production of such documents be paid or tendered to him.

Power of Lord Chancellor to make general rules.

111. Subject to the provisions of this Act, the Lord Chancellor may, with the advice and assistance of the registrar, from time to time make, and when made may rescind, annul, or add to, general rules in respect of all or any of the following matters; that is to say,

(1.) The mode in which the register is to be made and kept; and

(2.) The forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings before the registrar or in connexion with registration, and in particular with respect to the reference to a conveyancing counsel of the Court of Chancery of any title to land proposed to be registered with an absolute title; and

(3.) The custody of any instruments from time to time coming into the hands of the registrar, with power to direct the destruction of any such instruments where they have become altogether superseded by entries in the register, or have ceased to have any effect:

(4.) The costs to be charged by solicitors or certificated conveyancers in or incidental to or consequential on the registration of land, or any other matter required to be done for the purpose of carrying this Act into execution, with power to require such costs to be payable by commission, per-centage, or otherwise, and to bear a certain proportion to the value of the land registered, or to be determined on such other principle as may be thought expedient; and

(5.) The taxation of such costs and the persons by whom such costs are to be paid; and

(6.) Any matter by this Act directed or authorised to be prescribed; and

(7.) Any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution:

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Any rules made in pursuance of this section shall be laid before both Houses of Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

Principles on which fees determined.

112. The Lord Chancellor may from time to time, with the concurrence of the Commissioners of the Treasury, make, and when made revoke, alter, or add to rules with respect to the amount of fees payable under this Act, regard being had to the following matters:

(1.) In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value of the land as determined by the amount of purchase money; and

PART V. *Administration of Law and Miscellaneous.*

(2.) In the case of the registration of land, or of any transfer of land not upon a sale,—to the value of the land, to be ascertained in such manner as may be prescribed; and

(3.) In the case of registration of a charge or of any transfer of a charge,—to the amount of such charge.

Mode of taking fees.

113. The following rules shall be observed with respect to the fees payable in pursuance of this Act:

(1.) The fees shall, except so far as the Lord Chancellor, with the concurrence of the Commissioners of Her Majesty's Treasury, may from time to time otherwise direct, be taken by stamps; and if not taken by stamps, shall be taken, applied, accounted for, and paid over in such manner as may be directed by the Commissioners of Her Majesty's Treasury with the concurrence of the Lord Chancellor; and

(2.) Such stamps shall be impressed or adhesive, as the Commissioners of Her Majesty's Treasury from time to time direct; and

(3.) The Commissioners of Her Majesty's Treasury, with the concurrence of the Lord Chancellor, may from time to time make such rules as may seem fit for regulating the use of such stamps, and for insuring the proper cancellation of stamps, and for keeping accounts of such stamps; and

(4.) The Commissioners of Inland Revenue shall keep a separate account of all money received in respect of stamps under this Act, and subject to the deduction of any expenses incurred by those Commissioners in the execution of this Act, the money so received shall, under the direction of the Commissioners of Her Majesty's Treasury, be carried to and form part of the Consolidated Fund:

(5.) Any person who forges or counterfeits any such stamp, or uses any such stamp, knowing the same to be forged or counterfeit, or to have been previously cancelled or used, shall be guilty of forgery, and be liable on conviction to penal servitude for a term not exceeding seven years, or to imprisonment, with or without hard labour, for a term not exceeding two years.

Description and Powers of the Court.

"The court" to mean, according to circumstances, Court of Chancery and county court.

114. For the purposes of this Act, "the court" shall mean the Court of Chancery or the county court, according as the one or other of such courts may be prescribed by the general rules made for carrying into effect this Act.

The county court shall, in cases where it has jurisdiction under this Act, have, for all the purposes of such jurisdiction, all the powers of the Court of Chancery.

Any jurisdiction of the Court of Chancery or County Court under this Act may be exercised by any judge of the said court, whether sitting in open court or in chambers.

Lord Chancellor may assign duties as to registry to particular judges.

115. The Lord Chancellor may from time to time assign the duties vested in the Court of Chancery in relation to matters under this Act to any particular judge or judges of that court.

Appeal from county court.

116. Any person aggrieved by any order of a judge of a county court may, within the prescribed time and in the prescribed manner, appeal to the Court of Chancery.

The court on hearing such appeal may give judgment affirming, reversing, or modifying the order appealed from, and may finally decide thereon, and make such order as to costs in the court below and of the appeal as may be agreeable to justice; and if the court alter or modify the order, such order so altered or modified shall be of the like effect as if it were the order of the county court. The Court of Chancery may also, in cases where the court thinks it expedient so to do, instead of making a final order, remit the case, with such directions as the court may think fit, to the court below.

Appeal from Court of Chancery.

117. Any person aggrieved by an order made under this Act by the Court of Chancery otherwise than on appeal from a county court, may appeal within the prescribed time, in the same manner and with the same incidents in and with which orders made by the Court of Chancery on cases within the ordinary jurisdiction of such court may be appealed from.

As to District Registries.

PART V. *Administration of Law and Miscellaneous.*

Power to form district registries by general orders.

118. The Lord Chancellor, with the concurrence of the Commissioners of Her Majesty's Treasury, shall have power by general orders from time to time to do all or any of the following things:

(1.) To create district registries for the purposes of registration of land within the defined districts respectively, and to alter any districts which shall have been so created; and

(2.) To direct, by notice to be published in the "London Gazette," when (upon or after the commencement of this Act) registration of land is to commence in any district, and the place at which lands are to be registered; and

(3.) To commence registration of land in any one or more district or districts, pursuant to any such notice; and

(4.) To appoint district registrars, assistant district registrars, clerks, messengers, and servants to perform the business of registration in any district which may from time to time be created a district for registration under this Act.

The Lord Chancellor may, with the like concurrence, from time to time make, rescind, alter, or add to any order made in pursuance of this section.

Qualification of the district and assistant district registrar.

119. A person shall not be qualified to be appointed district registrar under this Act unless he is a barrister or solicitor or certificated conveyancer of not less than ten years standing, and a person shall not be qualified to be appointed an assistant district registrar under this Act unless he is either a barrister or solicitor or certificated conveyancer of not less than five years standing. A district registrar or assistant district registrar may, with the assent of the Lord Chancellor, follow another calling.

Seal for district registry.

120. A seal shall be prepared for each district registry office, and any instrument purporting to be sealed with such seal shall be admissible in evidence, and if a copy, the same shall be admissible in like manner as the original.

Powers of district registrar, and appeals from him.

121. Subject to general rules each district registrar and assistant district registrar shall, as regards the land within his jurisdiction, have the same powers and indemnity as are herein given to the registrar and assistant registrar in the office of land registry, and there shall be the same appeal as in the case of the registrar; and any orders made by a district registrar or assistant district registrar may in like manner be made orders of and be enforced by the court: Provided always, that the Lord Chancellor may, by general rules, make provision for the duties of district registrar, as regards all or any of the proceedings preliminary to first registration, or as regards any matters which the district registrar has to determine, or any other matters, being performed by the registrar or assistant registrar in the office of land registry, and for any district registrar, in any cases obtaining directions from or acting with the sanction of such registrar or assistant registrar; and any such orders may from time to time be rescinded, altered, or annulled by the Lord Chancellor, and all orders made in pursuance of this section shall be of the same force as if inserted in this Act, and shall be judicially noticed.

Application of general orders, &c. to districts.

122. The general orders, rules, forms, directions, and fees for the time being applying to and payable in the office of land registry shall also apply to and be payable in all the district registries, subject to any alteration or addition for the time being made for any district by the Lord Chancellor, with the concurrence of the Commissioners of Her Majesty's Treasury as to fees.

(2.) *Temporary Provisions.*

Transfer of existing staff to new registry office.

123. The registrar, assistant registrar, examiners of title, clerks, messengers, and servants at the time of the commencement of this Act attached to the office of land registry, shall from and after the commencement of this Act be attached to the office of land registry as constituted by this Act.

The registrar and other officers and persons so attached shall have the same relative rank, such rank being in the case of the assistant registrar above the rank of any other assistant registrar or any district registrar who may be appointed in pursuance of this

PART V. *Administration of Law and Miscellaneous.*

Act, and hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries, and, if entitled to pensions or superannuation allowances, be entitled to the same pensions or superannuation allowances, as if this Act had not passed; and their service under this Act shall, as regards their claim to pension or superannuation allowance, be deemed a continuance of their former service, but in the event of any such officer being appointed to a new office in pursuance of this Act, service under the Land Registry Act, 1862, shall be deemed to be service under this Act for the purposes of entitling such last-mentioned officer to salary, superannuation, compensation, gratuity, or other allowances under the Superannuation Acts. The messengers and servants of the office of land registry shall, during the tenure of office by the existing registrar, be appointed and removed by him.

The Lord Chancellor may, by rules, distribute the business to be performed in the office of land registry as constituted under this Act amongst the several officers attached thereto by this section, in such manner as he may think just; and such officers shall perform such duties in relation to such business as may be directed by such rules, with this qualification, that the duties required to be performed by any officer shall be the same as or duties analogous to those which he performed previously to the passing of this Act.

The officers so attached as aforesaid, and their successors in office, shall for all the purposes of the Land Registry Act, 1862, so far as it will remain in operation after the passing of this Act, and for all the purposes of the Improvement of Land Act, 1864, and of the Mortgage Debenture Act, 1865, be deemed to be officers acting under the Land Registry Act, 1862, and having to discharge the duties belonging to officers acting under such Act.

Transfer of books and papers.

124. All books, documents, and papers in the possession of the office of land registry as constituted before the passing of this Act, or of any person attached to or performing any ministerial duty in aid of such office, shall be dealt with in such manner as the Lord Chancellor may by order direct, and any person failing to comply with any order of the Lord Chancellor made for the purpose of giving effect to this section, shall be punished in the same manner as if he had been guilty of a contempt of the Court of Chancery.

Registration under Act of 1862 to cease, &c.

125. From and after the commencement of this Act, application for the registration of an estate under the Land Registry Act of 1862 shall not be entertained.

Possible re-registry of estates already registered under the Act of 1862.

126. From and after the commencement of this Act, the Lord Chancellor may, by order, provide for the registration under this Act, without cost to the parties interested, of all titles registered under the Land Registry Act, 1862, and care shall be taken in such order to protect any rights acquired in pursuance of registry under such last-mentioned Act, and any order so made by the Lord Chancellor shall have the same effect as if it were enacted in this Act; nevertheless it shall not be obligatory on any person interested in an estate registered under the said Land Registry Act, 1862, to cause such estate to be registered under this Act, and until such estate is registered under this Act, the Act of 1862 shall apply thereto in the same manner as if this Act had not passed.

Local Registries.

Land registered under Act to be exempted from registry of deeds.

127. Any land situate within the jurisdiction of any of the following local registries; that is to say,

(1.) The registry for the county of Middlesex; or
(2.) The registry for the West Riding of Yorkshire; or
(3.) The registry for the North Riding of Yorkshire; or
(4.) The registry for the East Riding of Yorkshire and the town and county of the town of Kingston-upon-Hull;

shall, if registered under this Act, from and after the date of the registration thereof, be exempt from such jurisdiction; and no document relating to any such registered land executed and no testamentary instrument relating to any such registered land coming into operation subsequently to such date as last aforesaid shall be required to be registered in any of the said local registries.

PART V. *Administration of Law, and Miscellaneous.*

Compensation to officers of local registries of deeds.

128. If any person who is at the commencement of this Act a registrar of or an officer in any of the said local registries, suffers any loss of fees or emoluments by reason of the business in such registry being diminished in consequence of this Act, he may petition the Commissioners of Her Majesty's Treasury for compensation, and the Commissioners of Her Majesty's Treasury shall inquire whether any, and if any, what compensation ought to be made to the petitioner, regard being had to the conditions on which his appointment was made, the nature of his office, the duration of his service, the character of his fees or emoluments, and all the circumstances of the case. The petitioner shall render to the Commissioners of Her Majesty's Treasury such account of the fees and emoluments received by him during any period not exceeding five years before the passing of this Act, and during such period before the date of his petition, and give such information as the Commissioners of Her Majesty's Treasury may require for the purpose of enabling them to ascertain whether the petitioner has suffered the loss alleged by him, and whether any, and if any, what compensation ought to be made to him.

If the Commissioners of Her Majesty's Treasury think that the claim of the petitioner to compensation is established, they may award to him, out of moneys to be provided by Parliament, such compensation, by annuity or otherwise, as under the circumstances of the case they think just and reasonable.

Repeal.

Repeal of 37 & 38 Vict. c. 78. s. 7.

129. The seventh section of the Vendor and Purchaser Act, 1874, is hereby repealed, as from the date at which it came into operation, except as to anything duly done thereunder before the commencement of this Act.

CHAPTER 88.

An Act to make provision for giving further powers to the Board of Trade for stopping unseaworthy Ships. [13th August 1875.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Appointment and powers of officers having authority to detain unseaworthy ships.

1. The Board of Trade may forthwith and from time to time by special order appoint a sufficient number of fit and proper persons, from their own staff or otherwise, to be officers having authority to detain unseaworthy ships, and may from time to time revoke any such appointment.

If any officer so appointed has reason to believe upon inspection or otherwise that any British ship is by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, he may order that the ship be detained for the purpose of being surveyed.

Any such order shall have the same effect as if it were an order of the Board of Trade under section twelve of the Merchant Shipping Act, 1873.

For the purpose of ascertaining whether a British ship is fit to proceed to sea, any officer so appointed may go on board the ship and inspect the same, or any part thereof, or any of the machinery, boats, equipments, or other articles on board thereof, not unnecessarily detaining or delaying her from proceeding on her voyage; and any person who wilfully impedes him in the execution of his duty shall be liable to the same penalties, and may be dealt with in the same manner as if the officer were an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854.

When any officer so appointed orders a ship to be detained, he shall forthwith report his proceedings to the Board of Trade.