2. This Act may be cited as the Government of the Soudan Loan (Amendment) Act, 1922, and shall be construed as one with the Government of the Soudan Loan Act, 1919, and those Acts may be cited together as the Soudan Loan Acts, 1919 and 1922. Short title and construction.

CHAPTER 16.

An Act to assimilate and amend the law of Real and Personal Estate, to abolish copyhold and other special tenures, to amend the law relating to commonable lands and of intestacy, and to amend the Wills Act, 1837, the Settled Land Acts, 1882 to 1890, the Conveyancing Acts, 1881 to 1911, the Trustee Act, 1893, and the Land Transfer Acts, 1875 and 1897.

[29th June 1922.]

BE it enacted by the King'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:—

PART I.

ASSIMILATION AND AMENDMENT OF THE LAW OF REAL AND PERSONAL ESTATE.

Legal Estates, Equitable Interests and Powers.

1.—(1) The only estates, interests or charges in or over land which, after the commencement of this Act, shall be capable of subsisting or of being conveyed or created at law shall consist of— "Legal estates" and "equitable interests," and repeal of the Statute of Uses.

(*a*) An estate in fee simple absolute in possession:

(*b*) A term of years absolute:

(*c*) An easement, right, or privilege in or over land for an interest equivalent to a like estate or term:

(*d*) A like estate or term in mines and minerals, apart from the surface, or in the surface apart from the mines and minerals:

(*e*) A rentcharge in possession issuing out of or charged on land being either perpetual or for a term of years absolute:

(*f*) Land tax, tithe rentcharge, and any other similar charge on land which is not created by an instrument:

(*g*) Rights of entry exerciseable over or in respect of a legal term of years absolute, or annexed, for any purpose, to a legal rentcharge.

And all other estates, interests, and charges in or over land (including fees determinable whether by limitation or condition) which at or after the commencement of this Act were, or but for this section would have been, legal estates, interests or charges, or capable of taking effect as such are hereby converted into or shall take effect as equitable interests.

(2) The estates, interests, and charges which under this section are authorised to subsist or to be conveyed or created at law are (when subsisting or conveyed or created at law) in this Act referred to as "legal estates," and the owner of a legal estate is referred to as "an estate owner" and his legal estate is referred to as his estate.

(3) A legal estate may subsist concurrently with or subject to any other legal estate in the same land in like manner as it could have done if this Act had not been passed.

(4) A legal estate shall not be capable of subsisting or of being created in an undivided share in land, and in this Part of this Act "land" does not include an undivided share therein unless the context so requires.

(5) Every power of appointment over, or power to convey or charge land or any interest therein, whether created by a statute or other instrument or implied by law, and whether created before or after the commencement of this Act (not being a power vested in a legal mortgagee or chargee by way of legal mortgage or an estate owner in right of his estate and exerciseable by him or by another person in his name and on his behalf), shall after such commencement operate only in equity.

(6) Estates, interests, and charges in or over land which are not legal estates are in this Act referred to as "equitable interests," and powers which by this Act are to operate in equity only are in this Act referred to as "equitable powers."

(7) The Statute of Uses and section sixty-two of the Conveyancing Act, 1881, are hereby repealed and the provisions in any statute or other instrument requiring land to be conveyed to uses shall take effect as directions that the land shall (subject to creating or reserving thereout any legal estate authorised by this Act which may be required) be conveyed to the proper person of full age upon the requisite trusts. 27 Hen. 8. c. 10. 44 & 45 Vict. c. 41.

(8) This section takes effect subject to the express savings and exceptions contained in this Part of this Act.

2. Legal estates outstanding at the commencement of this Act shall (in the circumstances mentioned in the first part of the First Schedule to this Act) vest in the person entitled to call for the same, or be extinguished or merged in accordance with the provisions of that schedule. The getting in of bare outstanding legal estates.

3.—(1) After the commencement of this Act a purchaser of a legal estate in land shall not be concerned with or affected by any equitable interest or power affecting that land, whether he has notice thereof or not, save as provided by subsection (2) of this section. Purchaser of legal estate not concerned with certain equitable interests or powers; and provisions for the protection thereof.

(2) A conveyance of a legal estate (other than a conveyance made by a mortgagee or personal representative in exercise of his powers) shall not, in favour of a purchaser, over-reach an equitable interest or power of which the purchaser has notice, unless—

(i) Such equitable interest or power—

(*a*) is independently of subsection (3) of this section over-reached by trustees for sale, or by the exercise of the powers conferred by the Settled Land Acts (as amended), or the powers conferred by a settlement; or

(*b*) is bound by an order of the court; or

(*c*) is over-reached by virtue of subsection (3) of this section; and

(ii) If any capital money arises from the transaction, the same is paid into court, or the requirements of this Act respecting the payment of capital

money arising under a trust for sale or a settlement, are complied with.

(3) Equitable interests and powers which are not capable of being over-reached independently of this subsection shall, notwithstanding any stipulation to the contrary, be capable of being over-reached in manner following:—

(i) Where the legal estate affected is at the time when any equitable interests or powers are created or arise subject to a trust for sale, the equitable interests and powers aforesaid may be over-reached by the trustees for sale, and shall, according to their priorities, take effect as if created or arising by means of a trust affecting the proceeds of sale and the income of the land until sale;

(ii) Where the legal estate affected is, at the time aforesaid subject to a settlement, the equitable interests and powers aforesaid may be over-reached by the tenant for life of full age or statutory owner, and shall, according to their priorities, take effect as if limited or arising by or under that settlement;

(iii) Where the legal estate affected is not subject to a trust for sale or a settlement, then, if the estate owner conveys his estate to two or more individuals approved either by the persons in whom the equitable interests or powers aforesaid are vested or by the court, or to a trust corporation, upon trust for sale, with or without power to postpone the sale, such equitable interests and powers may be over-reached by the trustees for sale, and shall, according to their priorities, take effect as if created or arising by means of a primary trust affecting the proceeds of sale and the income of the land until sale.

(4) Equitable interests and powers capable of being over-reached by virtue of subsection (3) of this section are in this Act referred to as "protected by a trust for sale or "a settlement."

(5) Save as hereinafter provided, this section shall not apply to the following equitable interests and powers namely—

(i) The benefit of any covenant or agreement restrictive of the user of freehold land;

(ii) Any easement, liberty, or privilege over or affecting land and being merely an equitable interest;

(iii) The benefit of any contract to convey or create a legal estate (including a contract conferring a valid option of purchase, a right of pre-emption, or any other like right);

(iv) Any equitable interest protected by registration as a land charge or by an entry in any of the registers kept at the land registry or elsewhere under the Land Charges Registration and Searches Act, 1888 (as amended), and not being an interest the registration of which does not operate to prevent the same being over-reached by a conveyance to a purchaser of a legal estate in or created out of land subject to a trust for sale or a settlement; 51 & 52 Vict. c. 51.

(v) Any equitable interest protected by a deposit of documents relating to the legal estate affected:

Provided that a purchaser of a legal estate in land shall not be concerned with or affected by any equitable interest comprised in paragraphs (i) (ii) and (iii) of this subsection unless—

(*a*) If created before the commencement of this Act, the purchaser has notice thereof; or,

(*b*) If created after the commencement of this Act, it is protected by registration as a land charge.

(6) Where any equitable interest or power, to which this section applies, has priority to any legal estate which is paramount to the trust for sale or settlement, nothing contained in this section shall enable such interest or power to be over-reached to the prejudice of the person in whom the same is vested without his consent.

(7) Without prejudice to the protection afforded by this section to the purchaser of a legal estate, nothing contained in this section shall deprive a person entitled to an equitable charge of any of his rights or remedies for enforcing the same.

Enforcement of equitable interests and powers.

4. All equitable interests and powers, whether created before or after the commencement or by virtue of this Act, shall be enforceable against the owner of the estate affected (other than a purchaser of a legal estate taking free therefrom) in the manner provided in the second part of the First Schedule to this Act.

Title to be shown to legal estates.

5.—(1) Where title is shown to a legal estate in land, it shall be deemed not necessary or proper to include in the abstract of title an instrument relating only to interests or powers which will be over-reached by the conveyance of the land to which title is being shown; but nothing in this Part of this Act shall affect the liability of any person to disclose an equitable interest or power which will not be so over-reached, or to furnish an abstract of any instrument creating or affecting the same.

(2) A solicitor delivering an abstract framed in accordance with this Act shall not incur any liability on account of an omission to include therein an instrument which, under this section, is to be deemed not necessary or proper to be included, nor shall any liability be implied by reason of the inclusion of any such instrument.

Registration in Middlesex and Yorkshire.

6. After the commencement of this Act it shall not be deemed necessary to register a memorial of any instrument in any local deeds registry unless the instrument operates to transfer or create a legal estate, or to create a charge thereon by way of legal mortgage; nor shall the registration of a memorial of any instrument not required to be registered be effectual or operate to give notice of the contents thereof.

Provisions as to contracts.

7.—(1) Where title can be made to a legal estate under the powers conferred by the Settled Land Acts (as extended by this Act) available to bind an equitable interest or power in or over the land without an application to the court, then a purchaser shall, notwithstanding any stipulation to the contrary, be entitled to require that title be made under such powers without the concurrence of the person entitled to the equitable interest or in whom the equitable power is vested.

(2) A stipulation contained in any contract, made after the commencement of this Act, to the effect that a purchaser shall, at his own expense or otherwise, trace and get in an outstanding legal estate, shall be void; and if the subject matter of the contract is expressed to be an equitable interest (and is such an interest as is capable of subsisting at law or an entailed interest in possession) then if the vendor has power to vest, or to require the legal estate to be vested in himself or in the purchaser, the contract shall extend to the legal estate; but this subsection does

not affect the right of a mortgagee of leasehold land to sell his mortgage term only if he is unable to convey the leasehold reversion expectant thereon.

(3) Any such stipulation as is hereinafter mentioned, contained in any contract (other than a contract by a mortgagee or personal representative) for the sale of a legal estate or of an interest in land capable of subsisting at law made after such commencement, shall be void, that is to say—

(*a*) A stipulation that a purchaser, where there are trustees of a settlement, shall accept a title made with the concurrence of a person entitled to an equitable interest, capable of being over-reached under the Settled Land Acts, instead of under those Acts.

(*b*) A stipulation that a purchaser, where there are no such trustees, shall accept a title made with the concurrence of more than two persons entitled to equitable interests (which would be capable of being over-reached under the Settled Land Acts, as soon as trustees of the settlement are appointed), instead of under those Acts; or shall pay or contribute towards the costs of the appointment of such trustees.

(*c*) A stipulation that a purchaser, where the land is subject to a trust for sale, shall accept a title otherwise than under the trust for sale or under the powers conferred on the trustees for sale.

(4) A contract or other liability created or arising before the commencement of this Act to make a settlement of land shall be deemed to be sufficiently complied with if the land is vested in the tenant for life of full age, or statutory owner, upon the trusts of a trust deed in like manner as is provided by this Part of this Act with respect to settlements made after the commencement of this Act; and any contract to dispose of an undivided share in land shall be deemed to be sufficiently complied with by the conveyance of a corresponding share in the proceeds of sale of the land in like manner as if the contract had been made after the commencement of this Act.

(5) A contract by an estate owner to create an equitable interest in land shall, unless the contrary

thereby appears, be construed as a contract to effect the same by means of a trust for sale.

(6) Without prejudice to the protection afforded by this Act to a purchaser of a legal estate, and to the provisions of this Act relating to the manner in which a contract is to be carried out, with or without variation, nothing in this Part of this Act shall affect the right to enforce a contract relating to land.

Rights protected by registration.

8. Where a purchaser of a legal estate is entitled to acquire the same discharged from an equitable interest which is protected by registration as a land charge or under the Land Charges Registration and Searches Act, 1888 (as amended), and which will not be overreached on the conveyance to him, he may notwithstanding any stipulation to the contrary, require—

(*a*) the registration to be cancelled free of expense to him; or

(*b*) that the person entitled to the equitable interest shall concur in the conveyance free of expense to the purchaser.

Mortgages.

Effect, creation, and realisation of mortgages of freeholds and leaseholds.

9. For the purpose of securing that the legal estate shall vest or remain vested in a mortgagor of land or in a purchaser from a mortgagee or other person who becomes entitled to the land free from the right of redemption, the provisions contained in the Second Schedule to this Act (under which mortgages of land are to take effect or be created only by demise or subdemise or by charge by way of legal mortgage) shall have effect, but without prejudice to the right to create equitable charges by deposit of documents or otherwise.

Undivided Shares.

The entirety of land held in undivided shares to vest in trustees for sale, with power to postpone the sale.

10. For removing the difficulties incidental to land being held in undivided shares, and for preventing the creation of undivided shares in land, except under a settlement and behind a trust for sale, the provisions contained in the Third Schedule to this Act (under which land held in undivided shares is vested or will become vested in trustees on trust for sale) shall have effect.

Dispositions on Trust for Sale.

11. For protecting purchasers acquiring land under a trust for sale, and the persons beneficially interested in the proceeds of sale or in the land until sale and for facilitating dealings with land held on trust for sale (including a partition among the persons interested) the provisions contained in the Fourth Schedule to this Act shall have effect.

Provisions for regulating and facilitating dealings with land held on trust for sale.

Settlements.

12. For assimilating the method of settling land to that employed in settling personal estate; for securing that settled land shall be vested in the tenant for life of full age or other persons who, during a minority, or at any other time when there is no tenant for life of full age, have the powers of a tenant for life; for providing for the devolution thereof on a death to personal representatives until an assent is given; for protecting equitable interests under a settlement by requiring capital money to be paid to at least two trustees (except in the case of a trust corporation) or into court, and for protecting trustees of settlements and purchasers of settled land, the provisions contained in the Fifth Schedule to this Act shall have effect.

Regulations respecting settlements of land.

Infants and Lunatics.

13. For securing that the legal estate of an infant shall vest or be vested in trustees; for providing for the management of land vested in personal representatives during a minority and for conveyances and settlements on behalf of lunatics or defectives being made in their names, the provisions contained in the Sixth Schedule to this Act shall have effect.

Infants not to take legal estates; conveyances on behalf of lunatics.

Land Charges.

14. For extending the statutory provisions relating to land charges to charges for death duties and other matters (including certain charges of local authorities) and for amending the Land Charges Registration and Searches Act, 1888, in reference thereto, the provisions contained in the Seventh Schedule to this Act shall have effect.

Amendment of the Land Charges Registration and Searches Act, 1888, in respect of death duties and other matters.

Death Duties and Bankruptcies.

Provisions for payment of death duties and protection of purchasers therefrom.

15.—(1) A personal representative shall be accountable for all death duties which may become leviable or payable on the death of the deceased in respect of land (including settled land) which devolves upon him by virtue of this Act or otherwise.

(2) In every other case the estate owner (other than a purchaser who acquires a legal estate after the charge for death duties has attached and free from such charge), shall be accountable for all the duties aforesaid which become leviable or payable in respect of his estate in the land or any interest therein capable of being overreached by his conveyance, made under the Settled Land Acts, or pursuant to a trust for sale, to a purchaser.

(3) Where a charge in respect of death duties is not registered as a land charge, a purchaser of a legal estate shall take free therefrom, unless the charge for duties attached before the commencement of this Act and the purchaser had notice of the facts giving rise to the charge.

(4) Where a charge in respect of death duties is not registered as a land charge, the person who conveys a legal estate to a purchaser, and the proceeds of sale, funds, and other property (if any) derived from the conveyance and the income thereof shall (subject as hereinafter provided) be or remain liable in respect of and stand charged with the payment of the death duties, the charge for which is over-reached by the conveyance, together with any interest payable in respect of the same.

(5) Notwithstanding that any death duties may be payable by instalments, on a conveyance of a legal estate by way of sale exchange or mortgage (by demise or sub-demise or by charge by way of legal mortgage), all death duties payable in respect of the land dealt with and remaining unpaid, the charge for which is over-reached by such conveyance, shall immediately become payable and carry interest at the rate of four pounds per centum per annum from the date of the conveyance:

Provided that where, by reason of this subsection, an amount is paid or becomes payable for duties and interest in excess of the amount which would have been

payable if the duties had continued to be paid by instalments, then such excess shall be repaid or allowed as a deduction by the Commissioners of Inland Revenue.

(6) Capital money liable to be laid out in the purchase of land to be settled in the same manner as the land in respect of which the duty became payable, and personal estate held on the same trusts as the proceeds of sale of land (in respect of which the duty became payable) held on trust for sale may, by the direction of the tenant for life of full age, statutory owner, or trustee for sale who is accountable, and although the duty is only payable in respect of an interest which is or is capable of being over-reached by a conveyance to a purchaser, be applied in discharging all or any of the duties aforesaid and the costs of discharging the same.

(7) Where the duties would not, except by virtue of the last subsection, be payable out of the capital money, or personal estate aforesaid, then the amount so paid shall be repaid by the person liable for the duty to the trustees of the settlement or the trustees for sale, by the like instalments and at the like rate of interest by and at which the unpaid duty and the interest thereon might have been paid if the land had not been conveyed to a purchaser, and the interests of the person so liable, remaining subject to the settlement of the land or of the proceeds of sale, shall stand charged with the repayment of the instalments and the interest aforesaid; and the trustees of the settlement or the trustees for sale shall be entitled to recover and receive any excess of duty which may become repayable by the said Commissioners.

(8) Except in the case of a conveyance to a purchaser, a conveyance shall take effect, subject to any subsisting charge or liability for payment of the duty and interest, if any, notwithstanding that the charge for duty may not have been registered.

(9) For the purpose of raising the duty, and the costs of raising the same, the personal representative or other person accountable as aforesaid shall have all the powers which are by any statute conferred for raising the duty.

(10) Nothing in this Act shall alter any duty payable in respect of land, or impose any new duty thereon, or

affect the remedies of the said Commissioners against any person other than a purchaser or a person deriving title under him.

(11) Notwithstanding that any duties are by this Act made payable by the personal representative or other person aforesaid, nothing in this Act shall affect the liability of the persons beneficially interested or their respective interests in respect of any duty, and they shall accordingly account for or repay the same and any interest and costs attributable thereto to the said Commissioners or to the personal representative or other person accountable as aforesaid, as the case may require.

(12) Nothing in this section shall impose on a personal representative, tenant for life of full age, statutory owner, trustee for sale, or other person in a fiduciary position, as such, any liability for payment of duty, in excess of the assets (including land) vested in him or in the trustees of the settlement which shall for the time being be available in his hands or in the hands of such trustees for the payment of the duty or which would have been so available but for his or their own neglect or default, or impose a charge for duties on leasehold land, or render a mortgagee liable in respect of any charge for duties which is not paramount to his mortgage.

(13) The said Commissioners, on being satisfied that a personal representative or other person accountable has paid or commuted or will pay or commute all death duty for which he is accountable in respect of the land or any part thereof, shall, if required by him, give a certificate to that effect, which shall discharge from any further claim for such duty the land to which the certificate extends, and the production of such certificate to the land registrar or other proper officer shall be a sufficient authority to enable him to cancel any land charge registered in respect of the duty so far as it affects the land to which the certificate extends.

(14) This section does not apply to registered land, and only applies in favour of a purchaser for money or money's worth.

As to bankruptcies of estate owners.

16.—(1) Every petition in bankruptcy filed after the commencement of this Act shall be registered at the land registry as a lis pendens, and, as respects any transfer

or creation of a legal estate, a petition filed after such commencement which is not so registered shall not, until so registered, be notice or evidence of any act of bankruptcy therein alleged.

(2) Rules for giving effect to this section may be made under and in manner provided by section one hundred and thirty-two of the Bankruptcy Act, 1914, as if the registration were required by that Act. No fee shall be charged for the registration of a lis pendens if the application therefor is made by the registrar of the court in which a petition has been filed. 4 & 5 Geo. 5. c. 59.

(3) Where the petition is filed against a firm, the application to register shall state the names and addresses of the partners, and a lis pendens shall also be registered against each partner.

(4) Every receiving order in bankruptcy made after the commencement of this Act may (whether or not it is known to affect land) be registered and re-registered as an order affecting land within the meaning of section five of the Land Charges Registration and Searches Act, 1888, and the provisions of that Act (including in particular section seventeen thereof) shall apply accordingly. No fee shall be charged for the registration of the order if the application therefor is made by an official receiver.

(5) The words "does not include an order made by a court having jurisdiction in bankruptcy, but save as aforesaid," in the definition of "judgment" in section four of the said Act of 1888 are hereby repealed.

(6) The title of the trustee in bankruptcy acquired after the commencement of this Act shall be void as against a purchaser of a legal estate claiming under a conveyance made after the date of registration of the petition in bankruptcy unless, at the date of the conveyance, either the lis pendens is in force or the receiving order is registered pursuant to this section.

(7) This section only applies in favour of a purchaser of a legal estate in good faith for money or money's worth without notice of an available act of bankruptcy.

Amendments of the General Law.

17.—(1) From and after the commencement of this Act, an interest in tail or in tail male or in tail female or in tail special (in this Act referred to as "an entailed Abolition of technicalities respecting

the creation of entailed interests and of the rule in Shelley's case.

interest") may be created in equity in any property, real or personal, but only by the like expressions as before the commencement of this Act a similar estate tail could have been created by deed (not being an executory instrument) in freehold land, and with the like results, including the right to bar the entail either absolutely or so as to create an interest equivalent to a base fee.

(2) Expressions contained in an instrument coming into operation after the commencement of this Act, which, in a will, or executory instrument coming into operation before such commencement, would have created an entailed interest in freehold land, but would not have been effectual for that purpose in a deed (not being an executory instrument) shall (save as next hereinafter provided) operate in equity, in regard to property real or personal, to create absolute, fee simple or other interests corresponding to those which, if the property affected had been personal estate, would have been created therein by similar expressions before the commencement of this Act:

Provided that where, by any instrument coming into operation after the commencement of this Act, an interest is expressed to be given to the heir or heirs or issue or any particular heir or any class of the heirs or issue of any person in words which, but for this proviso, would, under the rule of law known as the Rule in Shelley's case, have operated to give to that person an interest in fee simple or an entailed interest, such words shall operate in equity as words of purchase and not of limitation, and shall be construed and have effect accordingly: and in the case of an interest expressed to be given to an heir or heirs or any particular heir or class of heirs, the same person or persons shall take as would in the case of freehold land have answered that description if this Act had not been passed.

(3) Where personal estate (including the proceeds of sale of land directed to be sold and chattels directed to be held as heirlooms) is, after the commencement of this Act, directed to be enjoyed or held with or upon trusts corresponding to trusts affecting land in which, either before or after the commencement of this Act an entailed interest has been created, and is subsisting, such direction shall be deemed sufficient to create a corresponding entailed interest in such personal estate.

(4) In default of and subject to the execution of a disentailing assurance or the exercise of the testamentary

power conferred by this Act, an entailed interest (to the extent of the property affected) shall devolve in equity, from time to time, upon the persons who would have been successively entitled thereto as the heirs of the body (either generally or of a particular class) of the tenant in tail or other person, if the entailed interest had, before the commencement of this Act, been limited in respect of freehold land, and this Act had not been passed.

(5) Section thirty-two of the Fines and Recoveries Act, 1833 (relating to the appointment of special protectors of a settlement), is hereby repealed as respects settlements made or coming into operation after the commencement of this Act. 3 & 4 Will. 4 c. 74.

(6) An entailed interest shall only be capable of being created by a settlement of real or personal property or the proceeds of sale thereof (including the will of a person dying after the commencement of this Act), or by an agreement for a settlement in which the trusts to affect the property are sufficiently declared; and in this Act, where the context so admits, the expression "entailed interest" includes an estate tail (by this Part of this Act made to take effect in equity) created before the commencement of this Act.

Abolition of the double possibility rule.

18.—(1) The rule of law prohibiting the limitation, after a life interest to an unborn person, of an interest in land to the unborn child or other issue of such person is hereby abolished, but without prejudice to any other rule relating to perpetuities.

(2) This section only applies to limitations or trusts created by an instrument coming into operation after the commencement of this Act.

As to heirs taking by purchase.

19.—(1) A limitation of real or personal property in favour of the heir (either general or special) of a deceased person which, if limited in respect of freehold land before the commencement of this Act, would have conferred on the heir an estate in the land by purchase, shall operate in equity to confer a corresponding equitable interest in the property on the person who would, if this Act had not been passed, have answered the description of the heir (either general or special) of the deceased, in respect of his freehold land, either at the death of the deceased or at the time named in the limitation, as the case may require.

(2) This section applies whether or not the deceased person dies before or after the commencement of this Act but only applies to limitations or trusts created by an instrument coming into operation after such commencement.

Miscellaneous Provisions.

Rights of pre-emption and entry; and extension of the Satisfied Terms Act.

20.—(1) All statutory or other rights of pre-emption affecting a legal estate shall be and be deemed always to have been capable of release, and unless released shall remain in force in equity only; and, for removing doubts, it is hereby declared that—

All rights of entry affecting a legal estate which by law are exerciseable, on condition broken, or for any other reason, by a person or his heirs or otherwise—

(*a*) are assignable by deed; and

(*b*) (without prejudice to the devolution thereof on the death of the person entitled thereto for an interest not ceasing on his death, to his personal representatives as part of his estate) can be disposed of by will; and

(*c*) after the commencement of this Act may, but, in regard to an estate in fee simple, (not being a rentcharge held for a legal estate) only within the period authorised by the rule relating to perpetuities, be made exerciseable by any person and the persons deriving title under him.

8 & 9 Vict. c. 112.

(2) After the commencement of this Act, the Satisfied Terms Act, 1845, shall apply and extend to all terms of years created or limited out of leasehold land in like manner as if the term had been limited out of freehold land, whether the term is created before or after such commencement, and any such term shall when satisfied merge in the reversion expectant thereon.

Vesting orders and dispositions of legal estates operating as conveyances by an estate owner.

21.—(1) Every vesting order made by any court or other competent authority, vesting declaration (express or implied) under any statutory power, conveyance by a person appointed for the purpose under an order of the court or authorised under any statutory power to convey in the name or on behalf of an estate owner, and every conveyance made under any power reserved or conferred by this Part of this Act, which is made or executed for

the purpose of vesting, conveying, or creating a legal estate, shall operate to convey or create the legal estate disposed of in like manner as if the same had been a conveyance executed by the estate owner of the legal estate to which the order, declaration, or conveyance relates.

(2) Where the order, declaration, or conveyance is made in favour of a purchaser, then the provisions of this Act relating to a conveyance of a legal estate to a purchaser shall apply thereto.

(3) The provisions of the Trustee Act, 1893 (as amended by any subsequent enactment), relating to vesting orders and orders appointing a person to convey shall apply to all vesting orders authorised to be made by this Part of this Act. 56 & 57 Vict. c. 53.

22.—(1) The provisions of this Part of this Act relating to freehold land shall apply to manors, reputed manors, lordships, advowsons, tithe and perpetual rent-charges, and other incorporeal hereditaments, subject only to the qualifications necessarily arising by reason of the inherent nature of the hereditament affected. Provisions of Act to apply to incorporeal hereditaments.

(2) This Part of this Act shall not affect the special restrictions imposed on dealings with advowsons by the Benefices Act, 1898, or any other statute, nor affect the limitation of, or authorise any disposition to be made of, a title or dignity of honour which in its nature is inalienable. 61 & 62 Vict. c. 48.

(3) This section shall take effect subject to the express provisions of this Act relating to undivided shares.

23. Where an easement, right or privilege for a legal estate is created, it shall enure for the benefit of the land to which it is intended to be annexed. Easements.

24.—(1) A reservation of a legal estate shall operate at law without any execution of the conveyance by the grantee of the legal estate out of which the reservation is made, or any regrant by him, so as to create the legal estate reserved, by way of transmutation of possession, and so as to vest the same in possession in the person (whether being the grantor or not) for whose benefit the reservation is made. Reservations.

(2) A conveyance of a legal estate, subject to another legal estate not in existence immediately before the date of the conveyance, shall operate in like manner as a reservation, so as to create the last-mentioned estate and to vest the same in possession in the person for whose benefit that estate is to be created.

(3) This section applies to leasehold land as well as to freehold land.

Confirmation of past transactions.

25.—(1) A deed containing a declaration by the estate owner that his estate shall go and devolve in such a manner as may be requisite for confirming any interests intended to affect his estate and capable under this Act of subsisting as legal estates which, at some prior date, were expressed to have been transferred or created, and any dealings therewith which would have been legal if those interests had been legally and validly transferred or created, shall, to the extent of the estate of the estate owner, but without prejudice to the restrictions imposed by this Act in the case of mortgages, operate to give legal effect to the interests so expressed to have been transferred or created and to the subsequent dealings aforesaid.

(2) This section applies to leasehold land as well as to freehold land; and the powers conferred by this section may be exercised by a tenant for life of full age, statutory owner, trustee for sale and a personal representative as well as by an absolute owner.

Charitable and public trusts.

26.—(1) All land vested or to be vested in trustees on charitable, ecclesiastical, or public trusts or purposes shall be deemed to be settled land, and the trustees shall, in reference to the land, have all the powers which are by the Settled Land Acts conferred on a tenant for life and on the trustees of the settlement, and the instrument creating the trust shall be deemed the settlement, but, save where the trust is created by will coming into operation after the commencement of this Act, a vesting instrument shall not be deemed necessary for giving effect to the settlement.

(2) The said powers shall be exercisable subject to such consents or orders (if any) being obtained as would have been required to authorise the transaction if this Act had not been passed. And, where the land is vested in the official trustee of charity lands, the said powers shall be exerciseable by the managing trustees, and the official trustee aforesaid shall not be liable for giving effect to their directions.

(3) Nothing in this section shall affect the jurisdiction of the court, Charity Commissioners, Board of Education, or other competent authority, in regard to the administration of charitable, ecclesiastical, or public trusts.

(4) Where any trustees or the majority of any set of trustees have power to transfer or create any legal estate, the same shall be transferred or created by them in the names and on behalf of the persons (including the official trustee of charity lands) in whom the legal estate is vested.

(5) This section applies whether the trust was created before or after the commencement of this Act.

Examples of abstracts of title and instruments.

27.—(1) Examples of abstracts of title framed in accordance with the provisions of this Act are contained in the Eighth Schedule to this Act.

(2) Examples of instruments framed in accordance with the provisions of this Act are contained in the Ninth Schedule to this Act.

Savings and Reservations.

Legal interests converted into equitable interests not to fail.

28.—(1) A legal estate or interest in land subsisting or capable of taking effect at the commencement of this Act shall not fail by reason of the same being converted into an equitable interest either in the land or in the proceeds of sale thereof, nor shall its priority over other equitable interests be affected.

(2) A purchaser of a legal beneficial interest in possession (subsisting immediately before the commencement of this Act) of a tenant for life under a settlement shall (without prejudice to any protection conferred by this Act on a purchaser of a legal estate) have and may exercise the same rights and remedies as he would have had or have been entitled to exercise if the interest had remained a legal interest, and the reversion (if any) on any leases or tenancies derived out of the settled land had remained vested in him.

(3) Interests in land validly created or arising after the commencement of this Act, which are not capable of subsisting as legal estates, shall take effect as equitable interests, and save as otherwise expressly provided by this Act, interests in land which under the Statute of Uses or otherwise could before the commencement of this Act have been created as legal interests, shall be capable of being created as equitable interests.

(4) Nothing in this Part of this Act shall affect the right to enforce any lessor's or lessee's covenants, agreements, or conditions (including a valid option to purchase or right of pre-emption over the reversion or the term of years absolute) contained in any instrument creating a

term of years absolute the benefit or burden of which run with the reversion or the term, nor render necessary the registration of any land charge in respect of the same.

Special statutory modes for conveying or acquiring land.
33 & 34 Vict. c. 23.
59 & 60 Vict. c. 25.

29. The provisions of the Forfeiture Act, 1870, in regard to the land of a convict, of the Friendly Societies Act, 1896, in regard to land to which that Act applies, and the provisions of any other statutes passed or hereafter to be passed conferring special facilities or modes (whether by way of registered memorial or otherwise) for disposing of or acquiring land, or providing for the vesting (by conveyance or otherwise) of the same in trustees or any person or holder for the time being of an office or corporation (sole or aggregate), shall remain in full force, with the variation that powers for disposing of or creating a legal estate shall be exercised, when practicable, in the name and on behalf of the estate owner.

Leasing powers.

30.—(1) All leases or tenancies at a rent for a term of years absolute authorised by the Conveyancing Acts, 1881 and 1911, or the Settled Land Acts, or any other statute (whether or not extended by any instrument) may be granted in the name and on behalf of the estate owner by the person empowered to grant the same, whether being an estate owner or not, with the same effect and priority as if this Part of this Act had not been passed; and nothing in this Act shall prejudicially affect the power to accept surrenders of leases conferred by the Conveyancing Act, 1911, as extended by any instrument; but this section shall not (except as respects the usual qualified covenant for quiet enjoyment) authorise any person granting a lease in the name of an estate owner to impose any personal liability on him.

1 & 2 Geo. 5. c. 37.

(2) Where a rentcharge is held for a legal estate the owner thereof may under section forty-four of the Conveyancing Act, 1881 (as amended), or under any corresponding power, create a legal term of years absolute for securing or compelling payment of the same; but in other cases terms created under that section shall, unless and until the estate owner of the land charged gives legal effect to the transaction, take effect only in equity.

Limitation and Prescription Acts.

31. Nothing in this Part of this Act shall affect the operation of any statutes already passed, or hereafter to be passed, for the limitation of actions or proceedings relating to land or with reference to the acquisition of easements or rights over or in respect to land.

32. This Part of this Act shall not prejudicially affect the right or interest of any person arising out of or consequent on the possession by him of any documents relating to land, nor affect any question arising out of or consequent upon any omission to obtain or any other absence of possession by any person of any documents relating to land. Effect of possession of documents.

33. This Part of this Act shall not prejudicially affect the interest of any person in possession or in actual occupation of land to which he may be entitled in right of such possession or occupation. Interests of persons in possession.

Construction.

34. For giving effect to this Part of this Act, the enfranchisement of copyhold land, the conversion of perpetually renewable leaseholds into long terms, and the abolition of interessè termini shall be deemed to have been effected immediately before the commencement of this Act. Construction.

PART II.

AMENDMENTS OF THE SETTLED LAND ACTS.

35. The minor amendments of the Acts, consequential on other Parts of this Act, contained in the Tenth Schedule to this Act, shall have effect. Amendments consequential on other Parts of this Act.

36.—(1) On a sale or other disposition or dealing under the powers of the Acts— Power on dispositions to impose restrictions and reserve easements, and as to valuation of timber on sale.

(*a*) Any easement, right, or privilege over or in relation to the land disposed of, or any part thereof, may be reserved for the benefit of the settled land or any part thereof, including, in the case of an exchange, the land taken in exchange; and

(*b*) Any restriction with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed and made binding, as far as the law permits, by covenant, condition or otherwise, on the tenant for life and the settled land, or any part thereof, or on the other party and any land disposed of to him; and

(*c*) The whole or any part of any capital or annual sum (and in the case of an annual sum whether temporary or perpetual) charged on or payable out of the land disposed of, or any part thereof, and other land subject to the settlement, may, as between the tenant for life and his successors in title, and the other party and persons deriving title under or in succession to him (but without prejudice to the rights of the person entitled to such capital or annual sum) be charged exclusively on the land disposed of, or any part thereof, or such other land as aforesaid, or any part thereof, in exoneration of the rest of the land on or out of which such capital or annual sum is charged or payable.

(2) Subsection (1) of this section applies to dispositions or dealings before as well as after the commencement of this Act.

(3) A sale of land may be made subject to a stipulation that all or any of the timber and other trees, pollards, tellers, underwood, saplings and plantations on the land sold shall be taken by the purchaser at a valuation, and the amount of the valuation shall form part of the price of the land, and shall be capital money accordingly.

(4) In favour of a purchaser, a sale made before the commencement of this Act shall not be deemed to have been invalidated by reason only of any such stipulation as mentioned in the last preceding subsection, provided that the amount of the valuation was paid to the trustees of the settlement or into court.

45 & 46 Vict. c. 38.

(5) Subsection (6) of section four of the Settled Land Act, 1882, is hereby repealed.

(6) Subsection (1) of section seventeen of the Settled Land Act, 1882, shall have effect, and shall be deemed always to have had effect, as if the words "or mining" had not been contained therein, and the words "or other authorised disposition" had been inserted therein after the word "lease."

As to sale of mansion. 53 & 54 Vict. c. 69.

37. The restriction contained in subsection (2) of section ten of the Settled Land Act, 1890, shall apply in the case of a settlement made or coming into operation after the commencement of this Act only if the settlement expressly so provides.

Power to acquire land subject to certain incumbrances, and power for a tenant for life to accept leases. 51 & 52 Vict. c. 51.

38.—(1) Land may be acquired on a purchase or exchange to be made subject to a settlement, notwithstanding that the same is subject to any Crown rent, quit rent, chief rent, or other incident of tenure, or to any easement, right or privilege, or to any restrictive covenant, or to any liability to maintain or repair walls, fences, sea-walls, river banks, dykes, roads, streets, sewers, or drains, or to any land charge, as defined by section four of the Land Charges Registration and Searches Act, 1888 (as amended), which is capable of being redeemed out of capital money.

(2) The acquisition on a purchase or exchange before the commencement of this Act of any land subject to any such burden as aforesaid is hereby confirmed.

(3) A tenant for life may accept a lease of any land, or of any mines and minerals, or of any easement, right or privilege, convenient to be held or worked with or annexed in enjoyment to the settled land, or any part thereof, for such period, and upon such terms and conditions, as the tenant for life shall think fit; provided that no fine or premium shall be paid out of capital money in respect of such lease.

(4) The lease shall be granted to the tenant for life of full age, or statutory owner, and shall be deemed a supplemental vesting deed, and the statements and particulars required in the case of supplemental vesting deeds shall either be inserted therein or endorsed thereon.

(5) The lease may contain an option to purchase the reversion expectant on the term thereby granted.

Extension of section 10 of the Lands Clauses Consolidation Act, 1845. 8 & 9 Vict. c. 18.

39. The power conferred by section ten of the Lands Clauses Consolidation Act, 1845, to sell and convey land in consideration of an annual rentcharge shall extend to a tenant for life, in like manner in all respects as if he had been entitled to dispose of the settled land absolutely for his own benefit, and accordingly section four of the Lands Clauses Act, 1860, shall not apply to such a sale.

Consideration on sale to company incorporated by special Act, or provisional order.

40. The consideration on a sale under the powers conferred by the Acts to any company incorporated by special Act of Parliament or by provisional order confirmed by Parliament or the Board of Trade or by any other order, scheme or certificate having the force of an Act of Parliament, may, with the consent of the tenant for life, consist, wholly or in part, of fully-paid securities of

any description of the company, and such securities shall be vested in the trustees of the settlement and shall be subject to the provisions of the Acts relating to securities representing capital money arising under the Acts, and may be retained and held by the trustees in like manner as if they had been authorised by the Acts for the investment of capital money.

Power to grant water rights to statutory bodies for nominal consideration, and to make grants or leases for public purposes for a nominal consideration or gratuitously.

41.—(1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent which could be obtained, or gratuitously, to any statutory authority, of any water or streams or springs of water in, upon, or under the settled land, and of any rights of taking, using, enjoying and conveying water, and of laying, constructing, maintaining and repairing mains, pipes, reservoirs, dams, weirs and other works of any kind proper for the supply and distribution of water, and of any part of the settled land required as a site for any of the aforesaid works, and of any easement, right or privilege over or in relation to the settled land or any part thereof in connexion with any of the aforesaid works.

(2) Subsection (1) of this section does not authorise the creation of any greater rights than could have been created by a person absolutely entitled for his own benefit to the settled land affected.

(3) In subsection (1) of this section "statutory authority" means an authority for the time being empowered by any Act of Parliament, public or private, or by any order or certificate having the force of an Act of Parliament, to provide with a supply of water any town, parish or place in which the settled land or any part thereof is situated.

(4) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent which could be obtained, or gratuitously, of any part of the settled land for all, or any one, or more of the following purposes, namely:—

(i) For the site or the extension of any existing site of a place of religious worship, residence for a

minister of religion, school house, town hall, market house, public library, public baths, museum, hospital, infirmary, or other public building, literary or scientific institution, drill hall, working-men's club, parish room, reading room or village institute, with or without in any case any yard, garden, or other ground to be held with any such building; or

(ii) For the construction, enlargement, or improvement of any railway, canal, road (public or private), dock, sea-wall, embankment, drain, watercourse, or reservoir; or

(iii) For any other public or charitable purpose in connexion with the settled land, or any part thereof, or tending to the benefit of the persons residing, or for whom dwellings may be erected, on the settled land, or any part thereof:

Provided that in any particular case not more than one acre shall be conveyed for any purpose mentioned in clauses (i) and (iii) of this subsection, and not more than five acres for any purpose mentioned in clause (ii) of this subsection, unless the full consideration or rent be paid or reserved in respect of the excess.

(5) This section does not affect the powers conferred by section thirty-one of the Housing, Town Planning, &c. Act, 1919, or by section twenty-nine of the Land Settlement (Facilities) Act, 1919, but shall have effect in addition thereto. 9 & 10 Geo. 5. c. 35. 9 & 10 Geo. 5. c. 59.

(6) All money (not being rent) received on the exercise of any power conferred by this section shall be capital money arising under the Acts.

Extension of sections 6 and 7 of the Act of 1882.

42.—(1) Section six of the Settled Land Act, 1882, shall have effect as if the several terms of nine hundred and ninety-nine years, one hundred years, and fifty years were respectively substituted for the periods of ninety-nine years, sixty years, and twenty-one years therein mentioned.

(2) A tenant for life may lease the settled land, or any part thereof, or any easement, right, or privilege of any kind, over or in relation to the same, to the Forestry Commissioners for any term not exceeding nine hundred and ninety-nine years for any purpose for which the Forestry Commissioners are authorised to acquire land by the Forestry Act, 1919. 9 & 10 Geo. 5. c. 58.

(3) In the case of a lease under subsection (2) of this section—

(i) a peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first ten years or any less part of the term;

(ii) the rent may be made to be ascertainable by, or to vary according to the value of the timber on the land comprised in the lease, or the produce thereof, which shall during any year be cut, converted, carried away, or otherwise disposed of;

(iii) a fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent according to value in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent; and

(iv) any other provisions may be made for the sharing of the proceeds or profits of the user of the land between the reversioner and the Forestry Commissioners.

(4) In this section the expression "timber" includes all forest products.

(5) A new lease for a term of years absolute may be made to take effect in reversion after an existing lease having not more than seven years to run at the date of the new lease.

(6) This section applies to settlements coming into operation before as well as after the commencement of this Act, but only to leases executed after such commencement.

Power to sell in consideration of a rentcharge, and extension of section 13 of the Act of 1882.

43.—(1) A sale of settled land, or of any easement, right, or privilege over or in relation to settled land, may be made in consideration wholly or partially of a perpetual rent, or a terminable rent consisting of principal and interest combined, payable yearly or half yearly to be secured upon the land sold, or the land to which the easement, right, or privilege is to be annexed in enjoyment:

Provided that, in the case of a terminable rent, the conveyance shall distinguish the part attributable to

principal and that attributable to interest; and the part attributable to principal shall be capital money arising under the Acts.

(2) The rent to be reserved on any such sale shall be the best rent that can reasonably be obtained, regard being had to any money paid as part of the consideration, or laid out, or to be laid out, for the benefit of the settled land, and generally to the circumstances of the case, but a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable during any period not exceeding five years from the date of the conveyance.

(3) The provisions of subsections (3), (4), and (5) of section seven of the Settled Land Act, 1882, shall apply to this section as if those provisions were re-enacted in this section with the substitution of "conveyance" for "lease," "purchaser" for "lessee," and "duplicate" for "counterpart."

(4) The words "for building purposes" in section nine of the Settled Land Act, 1890, are hereby repealed.

(5) In section thirteen of the Settled Land Act, 1882, "surrender" shall include a regrant, and "lease" (save as hereinafter provided) shall include a grant in fee simple, and "lease of settled land," and "lease" in subsection (2) of that section, shall include land granted in fee simple with or subject to a reservation thereout of a perpetual or terminable rent which is or forms part of settled land, and "surrendered," "lease surrendered," "leased," "lessee," and "fine," shall respectively include "regranted," "land regranted," "granted," "grantee," and "consideration in money."

(6) The regrant shall be made to the tenant for life of full age or statutory owner, and shall be deemed a vesting deed, and the statements and particulars required in the case of vesting deeds shall be inserted therein.

(7) In the application of section thirteen of the Settled Land Act, 1882 (as extended), to land granted in fee simple, the words "whether the grant was made under the Acts or not" shall be substituted for the words "whether made under this Act or not" in subsection (1) of that section, and the words "the Acts" shall be substituted for the words "this Act" in subsection (6) of that section.

(8) This section shall apply to the sale of glebe land under any statutory provision authorising the sale thereof as if the incumbent were a person having the powers of a tenant for life and the glebe land were settled land, and with such other modifications as may be necessary, and in particular with this modification that in the case of a terminable rent so much thereof as does not represent principal shall be treated as purchase money arising from the sale of the land and be payable accordingly:

Provided that nothing in this subsection shall affect the necessity of obtaining any consent which is required under the statutory provision authorising the sale.

Power to grant options.

44.—(1) A tenant for life may at any time, either with or without consideration, grant by writing an option to purchase or take a lease of the settled land, or any part thereof, or any easement, right, or privilege over or in relation to the same at a price or rent fixed at the time of the granting of the option.

(2) Every such option shall be made exercisable within an agreed number of years not exceeding ten.

(3) The price or rent shall be the best which, having regard to all the circumstances, can reasonably be obtained, and may be either a specified sum of money or rent, or at a specified rate according to the superficial area of the land with respect to which the option is exercised, or the frontage thereof to any road, or (in the case of an option to purchase contained in a lease or agreement for a lease) may be a stated number of years' purchase of the highest rent reserved by the lease or agreement, or, if the option is exercisable as regards part of the land comprised in the lease or agreement, of a proportionate part of such highest rent; and any aggregate price or rent may be made to be apportionable in any manner, or according to any system, or by reference to arbitration.

(4) An option to take a mining lease may be coupled with the grant of a licence to search for and prove any mines or minerals under the settled land, or any part thereof, pending the exercise of the option.

(5) The consideration for the grant of the option shall be capital money arising under the Acts.

(6) The provisions of subsections (2), (3) and (4) of section thirty-one of the Settled Land Act, 1882, shall

apply to every contract arising by reason of the exercise of the option.

(7) The Settled Land Act, 1889, is hereby repealed. 52 & 53 Vict. c. 36.

Power to compromise claims and release restrictions, &c., and to vary leases and grants, and apportion rents.

45.—(1) A tenant for life may, with the consent in writing of the trustees of the settlement, either with or without giving or taking any consideration in money or otherwise, compromise, compound, abandon, submit to arbitration, or otherwise settle any claim, dispute, or question whatsoever relating to the settled land, or any part thereof, including in particular claims, disputes, or questions as to boundaries, the ownership of mines and minerals, rights and powers of working mines and minerals, manorial and seignorial rights generally, local laws and customs relative to the working of mines and minerals and other matters, easements, and restrictive covenants, and for any of those purposes may enter into, give, execute, and do such agreements, assurances, releases, and other things as the tenant for life may with such consent as aforesaid think proper.

(2) A tenant for life may, with the consent in writing of the trustees of the settlement, at any time, by deed or writing, either with or without consideration in money or otherwise, release, waive, or modify, or agree to release, waive, or modify any covenant or restriction imposed on any other land for the benefit of the settled land, or any part thereof, or release, or agree to release, any other land from any easement, right or privilege, including a right of pre-emption, affecting the same for the benefit of the settled land, or any part thereof.

(3) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, vary, release, waive or modify, either absolutely or otherwise, the terms of any lease of the settled land or any part thereof, or any covenants or conditions contained in any grant in fee simple whenever made of land with or subject to a reservation thereout of a rent which is or forms part of the settled land, and in either case in respect of the whole or any part of the land comprised in any such lease or grant, but so that every such lease or grant shall, after such variation, release, waiver or modification as aforesaid, be such a lease or grant as might then have been lawfully made under the Acts if

the lease had been surrendered, or the land comprised in the grant had never been so comprised, or had been regranted under section thirteen of the Act of 1882 as extended by this Act.

(4) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, agree for the apportionment of any rent reserved or created by any such lease or grant as aforesaid, or any rent being or forming part of the settled land, so that the apportioned parts of such rent shall thenceforth be payable exclusively out of or in respect of such respective portions of the land subject thereto as may be thought proper, and also agree that any covenants, powers, or remedies for securing such rent and any other covenants by the lessee or grantee and any conditions shall also be apportioned and made applicable exclusively to the respective portions of the land out of or in respect of which the apportioned parts of such rent shall thenceforth be payable.

(5) Where the settled land, or any part thereof, is held or derived under a lease, or under a grant reserving rent, or subject to covenants or conditions (whether such lease or grant comprises other land or not), the tenant for life may, at any time, by deed, with or without giving or taking any consideration in money or otherwise, procure the variation, release, waiver, or modification, either absolutely or otherwise, of the terms, covenants, or conditions contained in such lease or grant, in respect of the whole or any part of the settled land comprised therein, including the apportionment of any rent, covenants, conditions, and provisions reserved or created by, or contained in such lease or grant.

(6) Subsections (3), (4), and (5) of this section apply to leases or grants made either before or after the commencement of this Act.

(7) A tenant for life may contract that a transaction effected before or after the commencement of this Act, which (subject or not to any variation authorised by this subsection) is affected by section seventy-eight of the Railway Clauses Consolidation Act, 1845, or by section twenty-two of the Waterworks Clauses Act, 1847 (relating to support by minerals) shall take effect as if some other

distance than forty yards or the prescribed distance had been mentioned in such sections or had been otherwise prescribed.

(8) All money (not being rent) payable by the tenant for life in respect of any transaction to which this section relates shall be paid out of capital money arising under the Acts, and all money (not being rent) received on the exercise by the tenant for life of the powers conferred by this section, or of the powers conferred by section thirteen (as extended by this Act) and clauses (iii) and (iv) of subsection (1) of section thirty-one of the Settled Land Act, 1882, shall, unless the court (upon an application made within six months after the receipt thereof or within such further time as the court shall in special circumstances allow) otherwise directs, be capital money arising under the Acts.

(9) In this section "consideration in money or otherwise" means—

(*a*) A capital sum of money or a rent;

(*b*) Land being freehold or leasehold for any term of years whereof not less than sixty years shall be unexpired;

(*c*) Any easement, right or privilege over or in relation to the settled land, or any part thereof, or any other land;

(*d*) The benefit of any restrictive covenant or condition; and

(*e*) The release of the settled land, or any part thereof, or any other land, from any easement, right or privilege, including a right of pre-emption or from the burden of any restrictive covenant or condition affecting the same.

General power for the tenant for life to effect any transaction under an order of the court.

46.—(1) Any transaction affecting or concerning the settled land, or any part thereof, or any other land, not otherwise authorised by the Acts, or by the settlement, which in the opinion of the court would be for the benefit of the settled land, or any part thereof, or the persons interested under the settlement, may, under an order of the court, be effected by a tenant for life; provided that the transaction could have been validly effected by an absolute owner.

(2) In this section "transaction" includes any sale, extinguishment of manorial incidents, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation, or other disposition, and any purchase or other acquisition, and any covenant, contract or option, and any application of capital money (except as hereinafter mentioned), and any compromise or other dealing, or arrangement; but does not include an application of capital money in payment for any improvement not authorised by the Acts, or by the settlement; and "effected" has the meaning appropriate to a particular transaction; and the references to land extend and apply to mines and minerals, and to easements, rights, privileges, restrictions, and burdens over, or in relation to, or affecting, land.

(3) If a question arises or a doubt is entertained as to the intended exercise by the tenant for life of any power conferred by the Acts or the settlement, the tenant for life or any other person interested, or the trustees of the settlement may apply to the court for its decision, opinion, advice or directions thereon, or for the sanction of the court to any conditional contract for such exercise, and the court may make such order as it thinks fit.

61 & 62 Vict. c. 55.

(4) Section one of the Universities and College Estates Act, 1898, shall have effect as if the powers conferred by this and the last five preceding sections had been conferred by the Settled Land Act, 1882, and this and the last five preceding sections had been mentioned in Part I. of the First Schedule to the first-mentioned Act.

Extension of section 20 of the Act of 1882.

47.—(1) Section twenty of the Settled Land Act, 1882, is hereby extended to any disposition authorised under the Acts.

(2) Clauses (i), (ii), and (iii) of subsection (2) of section twenty aforesaid shall not extend to equitable interests or powers which under Part I. of this Act are protected by a settlement.

As to duration of settlements.

48.—(1) Land which has been subject to a settlement shall be deemed for the purposes of the Acts to remain and be settled land, and the settlement shall be

deemed to be a subsisting settlement for the purposes of the Acts, so long as any limitation, charge, or power of charging under the settlement subsists, or is capable of being exercised, or, where under Part I. of this Act any equitable interest or power takes effect as if limited by or arising under that settlement, so long as any such equitable interest or power subsists, or is capable of being exercised, or so long as a person who, if of full age, would be entitled as beneficial owner to have that land vested in him for a legal estate is an infant.

(2) Subsection (4) of section two of the Settled Land Act, 1882, is hereby repealed.

(3) Where, by a disentailing assurance, settled land is expressed to be limited (subject or not to any estates, interests, charges or powers thereby expressly created or conferred) to or upon the uses or trusts subsisting with respect thereto immediately before the execution of such disentailing assurance, or any of such uses or trusts, then, for the purposes of the Acts or otherwise, a person entitled to any estate or interest in the settled land under any such previously subsisting use or trust shall be and be deemed always to have been entitled thereto after the execution of such disentailing assurance as of his former estate or interest.

(4) Where, by a resettlement of settled land, any estate or interest therein is expressed to be limited to any person (subject or not to any estate, interest, charge or power expressly created or conferred by the resettlement) in restoration or confirmation of his estate or interest under a prior settlement, then, for the purposes of the Acts or otherwise, such person shall be and be deemed always to have been entitled to the estate or interest so restored or confirmed as of his former estate or interest; and in addition to the powers exercisable by him in respect of such former estate or interest, he shall be capable and be deemed always to have been capable of exercising the powers conferred by the Acts and the powers (if any) by way of extension and enlargement of the same powers conferred by the resettlement, and any other powers thereby conferred, in the same manner as if his estate or interest under the prior settlement had not been so restored or confirmed, but was an estate or interest subsisting under the resettlement only.

As to trustees of settlements created by more than one instrument.

49.—(1) Persons who are for the time being trustees for the purposes of the Settled Land Act, 1882, of an instrument which is a settlement, or is deemed to be a subsisting settlement for the purposes of the Acts, shall be the trustees for the purposes of the Acts of the settlement consisting of that instrument and instruments subsequent in date or operation, or any of them.

(2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but is to have effect without prejudice to any appointment previously made by the court of trustees of a settlement consisting of more than one instrument, and to the power of the court in any case hereafter to make any such appointment; and where any such appointment has been or shall be made this section shall not apply or shall cease to apply to the settlement consisting of the instruments to which the appointment relates.

As to trustees of referential settlements.

50.—(1) Where a settlement takes or has taken effect by reference to another settlement, the trustees for the time being of the settlement to which reference is made shall be and be deemed to have always been the trustees of the settlement by reference, but this section shall not apply if the settlement by reference contains an appointment of trustees thereof for the purposes of the Acts or any of them.

(2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but is to have effect without prejudice to any appointment previously made by the court of trustees of a settlement by reference, or of the compound settlement consisting of a settlement and any other settlement or settlements made by reference thereto, and to the power of the court in any case hereafter to make any such appointment, and where any such appointment has been or shall be made this section shall not apply or shall cease to apply.

(3) In this section "a settlement by reference to another settlement" means a settlement of land or capital money upon the limitations and subject to the powers and provisions of an existing settlement, with or without variation.

As to who are trustees for the

51.—(1) The persons described in clause (i) of section sixteen of the Settled Land Act, 1890, shall, in

the circumstances therein mentioned, be trustees for the purposes of the Acts, whether the settled land is to be sold or otherwise dealt with, and accordingly in that clause the words "or otherwise dealt with" shall be inserted after the word "sold."

purposes of the Acts, and as to additional powers to appoint trustees.

(2) In clause (ii) of section sixteen aforesaid the words "settled land" are hereby substituted for the words "land to be sold."

(3) Where any persons have been appointed trustees of a settlement, whether by an order of the court or otherwise, or have by reason of any power of sale, or trust for sale or by reason of a power of consent to, or approval of, the exercise of a power or trust for sale, or by virtue of this Act, or otherwise at any time become trustees of a settlement for the purposes of the Acts, then those persons or their successors in office shall remain and be trustees of the settlement as long as that settlement is subsisting or deemed to be subsisting for the purposes of the Acts. In this subsection the expression "successors in office" means the persons who, by appointment or otherwise, have become trustees for the purposes aforesaid.

(4) Where settled land is or has been expressed to be disposed of under a compound settlement of which trustees were appointed by the court, and the capital money (if any) arising on the disposition is or was paid to the persons who, by virtue of the order or any subsequent appointment, appear to be or to have been the trustees of that settlement; and where the person by or on whose behalf the disposition is or was made is or was the tenant for life of the land disposed of under an instrument mentioned in the order as constituting part of such compound settlement (in this subsection called "the principal instrument") then the title of the person to whom the disposition is made shall not be impeachable on the ground that—

(*a*) the instruments mentioned in the order did not constitute a compound settlement, or

(*b*) those instruments were not all the instruments at the date of the order or of the disposition, constituting the compound settlement, of the land disposed of, or

(*c*) any of the instruments mentioned in the order did not form part of the settlement of the land disposed of, or had ceased to form part of the settlement at the date of the disposition;

but nothing in this subsection shall prejudice the rights of any person in respect of any estate, interest or charge under any instrument existing at the date of the order and not mentioned therein, which would not have been overreached if the disposition had been made by or on behalf of the tenant for life under the principal instrument as such, and there had been trustees of that instrument for the purposes of the Acts, and the capital money (if any) arising on the disposition had been paid to such trustees.

(5) The foregoing provisions of this section shall operate to confirm all dispositions made before the commencement of this Act, but not so as to render invalid or prejudice any order of the court, or any title or right acquired before the commencement of this Act, and shall operate without prejudice to any appointment already made by the court of trustees of a settlement, and to the power of the court in any case hereafter to make any such appointment.

(6) Where at the commencement of this Act any persons appointed under section sixty of the Settled Land Act, 1882, have power to act generally or for any specific purpose on behalf of an infant, then those persons shall, by virtue of this Act, become and be the trustees of the settlement.

(7) Where a settlement is created by will, or a settlement has arisen by the effect of an intestacy, and apart from this subsection there would be no trustees for the purposes of the Acts of such settlement, then and in either of such cases the personal representatives of the deceased shall, until other trustees are appointed, be by virtue of this Act the trustees of the settlement; but where there is a sole personal representative (not being a trust corporation) it shall be obligatory on him, and he shall have power to appoint an additional trustee to act with him for the purposes of the Acts, and the provisions of the Trustee Act, 1893, as amended by any subsequent enactment, shall apply accordingly.

(8) Where at the commencement of this Act there is an infant who (by virtue of this Act or otherwise) is, or is deemed a tenant for life, or would if he were of full age have the powers of a tenant for life, and there are no trustees of the settlement (whether by virtue of the foregoing provisions of this Act or otherwise), then, if there is no other person able and willing to appoint trustees, the father or mother or testamentary or other guardian of the infant if respectively able and willing shall (in the order named) have power by deed to appoint new trustees of the settlement in the place of any former trustee, or, where no former trustee has been appointed, to appoint trustees of the settlement in like manner as if a trustee had been appointed and had refused to act in the trust, and the provisions of the Trustee Act, 1893 (as amended by any subsequent enactment), shall apply as if the persons aforesaid (in the order named) had been nominated by the instrument creating the settlement for the purpose of appointing new trustees thereof:

Provided that in favour of a purchaser a statement in the deed of appointment that the father or mother or both are dead or are unable or unwilling to make the appointment shall be conclusive evidence of the fact stated.

(9) The last paragraph of section sixty of the Settled Land Act, 1882, commencing with the words "and if there are none" is hereby repealed.

(10) Where the Public Trustee or any other trust corporation is the sole trustee of a settlement, the corporation shall, notwithstanding anything to the contrary contained in sections thirty-nine and forty-five of the Settled Land Act, 1882, or the settlement, have power and be deemed always to have had power to give receipts, accept notices, and otherwise act alone as trustee of the settlement for all the purposes of the Acts.

As to base fees.

52.—(1) It shall be deemed always to have been sufficient to enable the fee simple to be disposed of or dealt with under the Acts by the owner of a base fee or fee determinable, whether by limitation or condition, or the tenant for life thereof, if there were at the time of the transaction, trustees for the purposes of the Acts or any of them, of the settlement, consisting

of the instrument whereby the estate tail or determinable fee was created, and the capital money (if any) arising on such disposition or dealing was paid to such trustees or into court.

(2) In this section "base fee" has the same meaning as in the Fines and Recoveries Act, 1833.

3 & 4 Will. 4. c. 74.

Absolute owners, subject to certain interests, to have the powers of a tenant for life, and as to infants.

53.—(1) Where a person of full age is beneficially seised or entitled in possession of or to a legal estate subject to any estates, interests, charges, or powers of charging subsisting or capable of being exercised under a settlement, he shall have the powers of a tenant for life under that settlement, and section fifty-eight of the Settled Land Act, 1882, shall apply accordingly.

(2) Where a person of full age is beneficially seised or entitled in possession of or to a legal estate subject to any equitable interests or powers which by Part I. of this Act would have been protected if that legal estate had been subject to a settlement at the time when the equitable interests or powers were created or arose, then, for the purpose of overreaching such interests or powers, he may, notwithstanding any stipulation to the contrary, by deed, which shall have effect as a vesting deed, declare that the legal estate is vested in him on trust to give effect to all equitable interests and powers affecting the same, and appoint two or more individuals (approved either by the persons in whom the equitable interests or powers are vested or by the court) or a trust corporation to be trustees of such deed for the purposes of the Acts, and thereupon the following provisions shall have effect:—

(*a*) He shall have the powers of a tenant for life and the land shall be deemed settled land;

(*b*) The instrument (if any) under which his estate arises or is acquired, and the instrument (if any) under which the equitable interests or powers are subsisting or capable of taking effect shall be deemed to be the trust deed; provided that where there is no such instrument as last aforesaid then a deed (which shall take effect as a trust deed) shall be executed contemporaneously with the vesting deed, and shall declare the trusts affecting the land;

(*c*) The trustees for the time being of the vesting deed for the purposes of the Acts shall also be the trustees for the like purposes of the trust deed; and

(*d*) Capital money arising on any disposition of the land shall be paid to or by the direction of the trustees of the vesting deed or into court, and shall be applicable towards discharging or providing for payment in due order of any principal money payable in respect of such interests or charges as are overreached by such disposition, and until so applied shall be invested or applied as capital money under the trust deed; and the income thereof shall be applied as the income of such capital money, and be liable for keeping down in due order any annual or periodical sum which may be overreached as aforesaid.

(3) Sections fifty-nine and sixty of the Settled Land Act, 1882 (as extended by this section), shall apply and be deemed always to have applied, although the infant may be a married woman, and shall have effect subject to the provisions of Part I. of this Act requiring the settled land during a minority to be vested in the statutory owner unless retained by a personal representative; and section fifty-nine aforesaid shall extend and be deemed always to have extended to any leasehold interest whether at a rent or not, and section forty-one of the Conveyancing Act, 1881, is hereby repealed. 44 & 45 Vict c. 41.

(4) Where an infant will become beneficially entitled to land in possession on his attaining full age, and at any time during the minority there is no person having the powers of a tenant for life thereof, then for the purposes of the Acts the land is settled land and the infant shall be deemed tenant for life thereof, and the interest of any person (other than the infant) in the rents and profits during the minority shall be deemed to be an interest created by the settlement which is capable of being overreached under the Acts.

(5) The instrument (if any) under which the estate or interest of an infant, who is deemed a tenant for life of settled land, arises or is acquired shall be deemed to be the settlement; but where, by reason of an intestacy or otherwise, there is no such instrument then

a settlement shall be deemed to have been made by the intestate or other person through whom the infant derives title.

(6) The court may, where necessary or expedient, appoint trustees of any instrument or instruments which under the Acts is or are to be deemed or which together constitute the settlement, or of a settlement which is deemed to be subsisting, or of a settlement deemed to have been made by any person, and the provisions of section thirty-eight of the Settled Land Act, 1882, shall apply accordingly.

Exercise of powers of tenant for life by married woman restrained from anticipation.

54.—(1) Where a married woman (not being a tenant for life) entitled in possession is restrained from anticipation in respect of land which, if she were not so restrained, could be disposed of by her without her husband, then she, without her husband, shall have the powers of a tenant for life, and subsections (4) and (5) of section sixty-one of the Settled Land Act, 1882, shall apply accordingly.

(2) The instrument creating the restraint on anticipation shall be deemed the settlement, or one of the instruments constituting the settlement, as the case may require; and the married woman, if and when there are duly constituted trustees of the settlement, may execute the requisite vesting deed.

Amendment of section 58 of the Act of 1882.

55.—(1) For clause (ii) of subsection (1) of section fifty-eight of the Settled Land Act, 1882, shall be substituted the following clause, namely:—

"A person entitled to land for an estate in fee simple or for a term of years absolute (whether at a rent or not) with or subject to, in any of such cases, an executory limitation, gift, or disposition over on failure of his issue or in any other event."

(2) In clause (ix) of the said subsection the expression "trust" includes and shall be deemed always to have included an implied or constructive trust, and the expression "forfeiture" includes and shall be deemed always to have included cesser or determination by any means; and in the same clause the words "or to a trust for accumulation of income for any purpose" shall be inserted and be deemed always to have been inserted after the words "expenses of management."

(3) This section shall not render invalid or prejudice any title or right acquired before the commencement of this Act.

Powers of trustees when there is no tenant for life.

56.—(1) Where under a settlement coming into operation either before or after the commencement of this Act, there is no tenant for life nor (except as enacted by subsection (2) of this section) a person having the powers of a tenant for life by virtue of the Acts, but such powers, including any additional powers, are by the settlement expressed to be conferred on the trustees thereof or on any other person of full age, then such powers shall operate and be exercisable in like manner, and with all the like incidents, effects and consequences, as if the same had been conferred by the Acts.

(2) Where there is no tenant for life of full age nor a person of full age who by virtue of the settlement or of the Acts (apart from this subsection) has the powers of a tenant for life, then (without prejudice to the powers of a personal representative in whom the settled land may be vested) the trustees of the settlement shall have the powers of a tenant for life in regard to the settled land and capital money.

(3) Subsection (2) of this section applies to settlements coming into operation before as well as after the commencement of this Act; and applies to trustees of settlements of land purchased with money provided by Parliament in consideration of public services where the tenant in tail is restrained from barring or defeating his estate tail, save that, if such tenant in tail is of full age and capacity, the powers shall not be exercised without his consent, but a purchaser shall not be concerned to see or inquire whether such consent has been given.

Provisions as to different estates settled upon the same limitations.

57.—(1) Where estates are settled by different settlements upon the same limitations, whether by reference or otherwise, the following provisions shall have effect:—

(i) The estates or any two or more of them, as the case may require, may be treated as one aggregate estate, in which case the aggregate estate shall be the settled land for all the purposes of the Acts:

(ii) Where the trustees for the purposes of the Acts of the two or several settlements are the same persons they shall be the trustees of the settlement of the aggregate estate for all the purposes

of the Acts, and all or any part of the capital money arising from one of the estates may be applied by the direction of the tenant for life as if the same had arisen from any other of the estates:

(iii) Where the trustees for the purposes of the Acts of the two or several settlements are not the same persons—

(*a*) any notice required to be given by the Acts to the trustees of the settlement and to the solicitor of such trustees shall be given to the trustees of every settlement which comprises any part of the land to which such notice relates and to the solicitor of such trustees;

(*b*) any capital money arising on any sale, exchange, lease, mortgage, charge, or other disposition of land comprised in more than one settlement, shall be apportioned between the trustees of any two or more of the settlements in such manner as the tenant for life may think fit;

(*c*) all or any part of the capital money arising from the land comprised in one of the settlements may be paid by the trustees of that settlement, by such direction as aforesaid, to the trustees of any of the other settlements, to be applied by such last-mentioned trustees as if the same had arisen from land comprised in such other settlement:

(iv) For the purposes of this subsection, money liable to be laid out in the purchase of land to be settled upon the same limitations as other land may be applied and dealt with in like manner in all respects as if land had been purchased and settled, and the money were capital money arising therefrom.

(2) Estates shall be deemed to be settled upon the same limitations, notwithstanding that any of them may be subject to incumbrances, charges, or powers of charging to which the other or others of them may not be subject: Provided that, in any such case as last aforesaid, the powers of this section relating to the payment or application of capital money shall not (unless

the settlement under which the capital money is held otherwise provides) be exercisable without an order of the court.

(3) This section applies to settlements coming into operation before as well as after the commencement of this Act.

(4) This section is to have effect without prejudice to any appointment previously made by the court of trustees of the settlement of an aggregate estate, and to the power of the court in any case hereafter to make any such appointment, and where any such appointment has been or shall be made, this section shall have effect as if the trustees so appointed and their successors in office were the trustees for the purposes of the Acts of each of the settlements constituting the settlement of the aggregate estate, and there were no other trustees thereof for the purposes of the Acts.

(5) In this section "estate" means the land, capital money, and securities representing capital money for the time being subject to a particular settlement.

Provision enabling dealings with tenant for life.

58.—(1) (*a*) A sale, grant, lease, mortgage, charge or other disposition of settled land, or of any easement, right, or privilege over the same may be made to the tenant for life; or

(*b*) Capital money may be advanced on mortgage to him; or

(*c*) A purchase may be made from him of land to be made subject to the limitations of the settlement; or

(*d*) An exchange may be made with him of settled land for other land; and

(*e*) Any such disposition, advance, purchase, or exchange as aforesaid may be made to, from, or with any body of persons of whom the tenant for life is one;

And in every such case the trustees of the settlement shall, in addition to their powers as trustees, have all the powers of a tenant for life in reference to negotiating and completing the transaction, and shall have power to enforce any covenants by the tenant for life, or, where the tenant for life is himself one of the trustees, then the other or others of them shall have such power, and the said powers of a tenant for life may be exercised by the trustees of the settlement in the name and on behalf of a tenant for life of full age.

(2) This section shall apply, notwithstanding that the tenant for life is one of the trustees of the settlement, or that an order has been made authorising the trustees to act on his behalf, or that he may be an infant, or a lunatic whether so found or not, or a defective, but shall not apply to dealings with any body of persons which includes a trustee of the settlement (not being the tenant for life) unless the transaction is either previously or subsequently approved by the court.

(3) Section twelve of the Settled Land Act, 1890, is hereby repealed.

Power to charge by way of additional or substituted security.

59.—(1) Where an incumbrance affects any part of the settled land, the tenant for life shall have power and be deemed always to have had power, with the consent of the incumbrancer, to vary the rate of interest charged and any of the other provisions of the instrument (if any) creating the incumbrance, and with the like consent (but only after the commencement of this Act) to charge that incumbrance on any part of the settled land, whether already charged therewith or not, by way of additional or substituted security, and to raise the money properly required for payment of the costs of the transaction on mortgage of the settled land or of any part thereof, and by creation of a term of years absolute in the settled land, or by charge by way of legal mortgage, to make provision accordingly.

(2) Incumbrance in subsection (1) of this section includes any annual sum payable during a life or lives or during a term of years absolute or determinable, but in any such case the additional or substituted security shall be effected so as only to create a charge or security similar to the original charge or security.

(3) Section five of the Settled Land Act, 1882, shall be deemed always to have authorised a charge on all or any part of the capital money or securities representing capital money subject to the trusts of the settlement; and after the words "on any other part of the settled land" in that section the words "or on all or any part " of the capital money or securities representing capital " money arising from the transaction or otherwise subject " to the settlement" are hereby inserted.

(4) Incumbrance in section five of the Settled Land Act, 1882, includes, and shall be deemed always to have

included, any incumbrance, whether capable of being overreached on the exercise by the tenant for life of the powers conferred by the Acts, or not.

(5) Where under the Acts power is given to raise money for any purpose, the power shall include, and be deemed always to have included, power to raise the money properly required for the payment of the costs of the transaction.

(6) Section five of the Settled Land Act, 1882, shall, after the commencement of this Act, apply so as to enable any part of the settled land to be exonerated from an incumbrance affecting the same and any other part of the settled land to be charged therewith, whether the part exonerated is to be sold or exchanged or not.

Dedication for streets, open spaces, &c.

60.—(1) The power to appropriate and lay out part of the settled land for streets and other purposes conferred by section sixteen of the Settled Land Act, 1882, may be exercised after as well as on or in connexion with a sale or grant for building purposes, or a building lease, or the development of the settled land, or any part thereof, as a building estate, or at any other reasonable time, and accordingly that section shall have effect, and shall be deemed always to have had effect, as if the words "after or" were inserted after the words "On or," and the words "or the development of the settled land, or "any part thereof, as a building estate, or at any other "reasonable time" were inserted after the words "building lease," and in regard to the dedication of land for public purposes a tenant for life shall be in the same position as if he were an absolute owner.

(2) A tenant for life shall have power, and be deemed always to have had power—

(*a*) to enter into any agreement for the recompense to be made for any part of the settled land which is required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise; and 5 & 6 Will. 4. c. 50.

(*b*) to consent to the diversion of any highway over the settled land under section eighty-five of that Act or otherwise.

And any agreement or consent so made or given shall be as valid and effectual, for all purposes, as if made or given by an absolute owner of the settled land, provided

that any money received in respect of such agreement or consent shall be capital money arising under the Acts.

61 & 62 Vict. c. 55.

(3) Section one of the Universities and College Estates Act, 1898, shall have effect as if the powers conferred by this section had been conferred by the Settled Land Act, 1882, and this section had been mentioned in Part I. of the First Schedule to the first-mentioned Act.

Trustees for management of settled land during minority.

61.—(1) The trustees of a settlement for the purposes of the Acts shall, unless the settlement or the order of the court, whereby they or their predecessors in office were appointed to be such trustees, expressly provides to the contrary, also be trustees of the settlement for the purposes of section forty-two of the Conveyancing Act, 1881.

(2) This section shall have effect subject to any express appointment by the settlement or the court of trustees for the purposes of section forty-two aforesaid.

Extension of section 42 of the Act of 1882.

62.—(1) Where the tenant for life directs capital money to be invested on any authorised security or investment, the trustees of the settlement shall not be liable for the acts of any agent employed by the tenant for life in connexion with the transaction, or for not employing a separate agent in or about the valuation of the security or the investigation of the title thereto, or for the form of the security or of any deed conveying the same to the trustees.

(2) The trustees of the settlement shall not be liable for paying or applying any capital money by the direction of the tenant for life for any authorised purpose.

(3) The trustees of the settlement shall not be liable in any way on account of the documents of title (other than securities for capital money) relating to the settled land, including any vesting instrument and any appointment of new trustees thereof, being placed in the possession of the tenant for life of full age :

Provided that where, if the settlement were not disclosed, it would appear that the tenant for life had a general power of appointment over, or was absolutely and beneficially entitled to the settled land, the trustees of the settlement shall, before they deliver the documents to him, require that notice of the subsisting vesting instrument be written on one of the documents under

which the tenant for life acquired his title; and may, if the documents are not in their possession, require such notice to be written as aforesaid, but, in the latter case, they shall not be liable in any way for not requiring the notice to be written.

(4) This section applies to dealings and matters effected before as well as after the commencement of this Act.

As to personal estate settled by reference to capital money, or on trusts corresponding with the limitations of land.

63.—(1) (*a*) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation, either before or after the commencement of this Act, directed to be held on trusts declared by reference to capital money arising under the Acts, or any of the Acts, from land settled by that instrument or any other instrument, or to securities representing capital money so arising, the same shall be held on the like trusts as if the same had been or represented money which had actually arisen under the Acts from the settled land; and

(*b*) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation after the commencement of this Act directed to be held on trusts corresponding as nearly as may be with the limitations of land settled by that instrument or any other instrument, the same shall be held on the like trusts as if the same had been or represented capital money arising under the Acts from the settled land.

(2) Such money, securities, or proceeds of sale shall be paid or transferred to or retained by the trustees of the settlement for the purposes of the Acts of the settled land, or paid or transferred into court, and invested or applied, accordingly.

(3) Where the settled land includes freehold land, the money, securities, or proceeds of sale aforesaid shall be held on the like trusts as if the same had been or represented capital money arising from the freehold land.

(4) This section shall have effect notwithstanding any direction in the instrument creating the trust that the trust property is not to vest absolutely in any tenant in tail or in tail male or in tail female under the limitations of the settled land who dies under a specified age, or before the happening of a specified event, but, save

as aforesaid, shall have effect with any variations, and subject to any contrary intention expressed in the instrument creating the trust.

Application of capital money.

64.—(1) In addition to the modes authorised by section twenty-one of the Settled Land Act, 1882, capital money shall be deemed always to have been capable of being applied—

(i) In paying any increment value duty which a tenant for life had power to charge on the settled land under section thirty-nine of the Finance (1909–10) Act, 1910, and any reversion duty, and any costs and expenditure incurred by the tenant for life, or the trustees of the settlement, in connexion with any valuation under the said Act, or with the assessment and ascertainment of the amount of any increment value duty which a tenant for life had power to charge as aforesaid, or any reversion duty so as to validate past payments;

10 Edw. 7. c. 8.

(ii) In the purchase, with the leave of the Court, of any leasehold interest where the immediate reversion is settled land, so as (unless the Court otherwise directs) to merge the same in the reversion, and notwithstanding that the leasehold interest may have less than sixty years to run;

(iii) In payment of the costs and expenses of all plans, surveys, and schemes, including schemes under the Town Planning Acts, 1909 and 1919, or any similar Act, made with a view to, or in connexion with the improvement, or development of the settled land, or any part thereof, or the exercise of any statutory powers, and of all negotiations entered into by the tenant for life with a view to the exercise of any of the said powers, notwithstanding that such negotiations may prove abortive;

9 Edw. 7. c. 44. 9 & 10 Geo. 5. c. 35.

(iv) In the purchase or discharge of an annuity charged under section four of the Tithe Act, 1918, on the settled land or any part thereof, or in the discharge of such part of any such annuity as does not represent interest; or

8 & 9 Geo. 5. c. 54.

(v) In payment to a local or other authority in consideration of such authority taking over and

becoming liable to repair a private road on the settled land or a road for the maintenance whereof a tenant for life is liable ratione tenuræ.

(2) In addition to the aforesaid modes, capital money may, after the commencement of this Act, be applied in financing any person who may have agreed to take a lease or grant for building purposes of the settled land, or any part thereof, by making advances to him in the usual manner on the security of an equitable mortgage of his building agreement.

(3) This section applies to settlements coming into operation either before or after the commencement of this Act.

Amendment of section 25 and repeal of section 26 of the Act of 1882; and power to raise money for improvements and for the Court, or the trustees to impose conditions for repayment of money applied for improvements.

65.—(1) Improvements authorised by the Settled Land Act, 1882, shall include the following, namely:—

(i) Residential houses for land or mineral agents, managers, clerks, bailiffs, woodmen, gamekeepers and other persons employed on the settled land, or in connexion with the management or development thereof:

(ii) Any offices, workshops and other buildings of a permanent nature required in connexion with the management or development of the settled land or any part thereof:

(iii) The development of the settled land, or any part thereof as a building estate, and the erection, building, making, and laying out for that purpose of dwelling houses, shops, buildings for religious, educational, literary, scientific, or public purposes, market places, market houses, places of amusement and entertainment, parks, squares, gardens, grounds for recreation, exercise, or games, or other open spaces, roads, streets, paths, sewers, drains, gasworks, electric light or power works, or any other works necessary or proper in connexion with the objects aforesaid:

(iv) Restoration or reconstruction of buildings damaged or destroyed by dry rot:

(v) Structural additions and alterations to buildings reasonably required, whether the buildings are intended to be let or not, or are already let:

(vi) Boring for water and other preliminary works in connexion therewith:

(vii) Subject to provision for the repayment of the capital money expended being made in manner

hereinafter provided, heating, hydraulic or electric power apparatus for buildings, and engines, pumps, lifts, rams, boilers, flues, and other works required or used in connexion therewith:

(viii) Subject to provision for the repayment of the capital money expended being made in manner hereinafter provided, engine houses, engines, gasometers, dynamos, accumulators, cables, pipes, wiring, switchboards, plant and other works required for the installation of electric, gas, or other artificial light, in connexion with any principal mansion house, or other house or buildings; but shall not include electric lamps, gas fittings, or decorative fittings required in any such house or building:

(ix) Subject to provision for the repayment of the capital money expended being made in manner hereafter provided, steam rollers, traction engines, motor lorries and moveable machinery for farming or other purposes.

(2) Where money is required for the purpose of paying for any improvement authorised by the Acts, or by the settlement, the tenant for life may raise the money so required and the costs of raising the same in the manner provided by section eleven of the Settled Land Act, 1890 (as amended), in regard to money thereby authorised to be raised, and the money raised under this subsection shall be capital money for the purpose aforesaid, and may be paid or applied accordingly.

(3) Capital money arising under the Acts may be applied in or towards payment for any improvement authorised by the Acts or by the settlement, without any scheme for the execution of the improvement being first submitted for approval to, or approved by, the trustees of the settlement or the court.

(4) Where the capital money to be expended is in the hands of the trustees of the settlement, they may apply that money in or towards payment for the whole or any part of any work or operation comprised in the improvement, on—

(i) A certificate to be made by a competent engineer or able practical surveyor employed independently of the tenant for life, certifying that the work or operation comprised in the improvement, or some specific part thereof, has been properly executed, and what amount is properly payable in respect

thereof, which certificate shall be conclusive in favour of the trustees as an authority and discharge for any payment made by them in pursuance thereof; or

(ii) An order of the Court directing or authorising the trustees so to apply a specified portion of the capital money:

Provided that, in the case of improvements not authorised by the Settled Land Acts, 1882 and 1890, or by the settlement, the trustees shall be entitled, if they shall think fit, before they make any such application of capital money to require that that money, or any part thereof, shall be repaid to them, out of the income of the settled land by not more than fifty half-yearly instalments, the first of such instalments to be paid or to be deemed to have become payable at the expiration of six months from the date when the work or operation, in payment for which the money is to be applied, was completed.

(5) The tenant for life is by this section authorised to create out of the settled land, or any part thereof, a yearly rentcharge in favour of the trustees of the settlement sufficient in amount to discharge the said half-yearly instalments.

(6) Where the capital money to be expended is in Court, the court may, if it thinks fit, on a report or certificate of the Minister, or of a competent engineer or able practical surveyor approved by the court, or on such other evidence as the court shall think sufficient, make such order and give such directions as it thinks fit for the application of the money, or any part thereof, in or towards payment for the whole or any part of any work or operation comprised in the improvement.

(7) Where the court authorises capital money to be applied in payment for any improvement or intended improvement not authorised by the Settled Land Acts, 1882 and 1890, or by the settlement, the court may, as a condition of making the order, require that the capital money or any part thereof shall be repaid to the trustees of the settlement out of the income of the settled land by a fixed number of periodical instalments to be paid at

the times appointed by the court, and may require that any incumbrancer of the life estate shall be served with notice of the proceedings.

(8) Where any such order is made, the settled land shall stand charged with the payment to the trustees of the settlement of a yearly rentcharge sufficient in amount to discharge the periodical instalments, and the rentcharge shall accrue from day to day, and be payable at the times appointed for payment of the periodical instalments, and shall have effect as if limited by the settlement prior to the estate of the tenant for life, and the trustees of the settlement shall have all statutory and other powers for recovery thereof.

(9) A rentcharge created by or under this section shall not be redeemed out of capital money, but may be overreached in like manner as if the same were limited by the settlement, and shall cease if and when the land affected by the improvement ceases to be settled or is sold or exchanged, but if part of the land affected remains subject to the settlement the rentcharge shall remain in force in regard to the settled land.

(10) All money received by the trustees of the settlement in respect of any instalments under this section shall be held by them as capital money arising from freehold land under the settlement, unless the court otherwise directs.

(11) Section twenty-six of the Settled Land Act, 1882, is hereby repealed.

(12) The improvements authorised by this section shall, for the purposes of the Universities and College Estates Act, 1898, be deemed to be inserted in the Third Schedule to that Act.

61 & 62 Vict. c. 55.

As to money received by way of damages for breach of covenant.

66.—(1) Money (not being rent) received by way of damages or compensation for breach of any covenant by the lessee or grantee contained in any lease or grant of settled land shall, unless in any case the court on the application of the tenant for life or the trustees of the settlement otherwise directs, be deemed to be capital money arising under the Acts, and shall be paid to or retained by the trustees of the settlement, or paid into court, and invested or applied, accordingly.

(2) In addition to the other modes in which capital money may be applied under the Acts or the settlement,

money so received as aforesaid or any part thereof may, if the circumstances permit, be applied at any time within twelve months after such receipt, or such extended period as the court may allow, in or towards payment of the costs of making good in whole or in part the breach of covenant in respect of which it was so received, or the consequences thereof, and the trustees of the settlement, if they think fit, may require any money so received or any part thereof to be so applied.

(3) In the application of any such money in or towards payment of the cost of making good any such breach or the consequences of any such breach as aforesaid, the work required to be done for the purpose shall be deemed to be an improvement authorised by the Settled Land Act, 1882.

(4) This section does not apply to money received by way of damages or compensation for the breach of a covenant to repay to the lessor or grantor money laid out or expended by him, or to any case in which if the money received were applied in making good the breach of covenant or the consequences thereof such application would not enure for the benefit of the settled land, or any buildings thereon.

(5) This section does not apply to money received by way of damages or compensation before the commencement of this Act, but it applies whether the lease or grant was made before or after the commencement of this Act, and whether under the powers conferred by the Acts or not.

(6) The provisions of this section apply only if and as far as a contrary intention is not expressed in the settlement, and shall have effect subject to the terms of the settlement, and to any provisions therein contained, but a contrary intention shall not be expressed merely by words negativing impeachment for waste.

As to capital arising otherwise than under the Acts.

67.—(1) Where before the commencement of this Act any money arising from settled land otherwise than under the Acts, which ought, as between the persons interested in the settled land, to have been treated as capital has been invested, applied, or otherwise dealt with as if it had been capital money arising under the Acts, such investment, application, or other dealing is hereby confirmed.

(2) Any money, which shall so arise after the commencement of this Act, as well as any money or securities in the names or under the control of the tenant for life or the trustees of the settlement, being or representing money which had so arisen before the commencement of this Act, and which ought, as between the persons aforesaid, to be or to have been treated as capital, shall (without prejudice to any other statutory provisions affecting the same) be deemed to be or to represent capital money arising under the Acts, and shall be paid or transferred to or retained by the trustees of the settlement, or paid or transferred into court, and invested or applied accordingly.

Effect of surrender of life estate to the next remainderman.

68.—(1) Where the estate or interest of a tenant for life under the settlement has been or is absolutely assured with intent to extinguish the same, either before or after the commencement of this Act, to the person next entitled in remainder or reversion under the settlement (whether or not any term of years or charge intervenes, or the estate of the remainderman or reversioner is liable to be defeated), then, if and when such remainderman or reversioner would, if the tenant for life were dead, be or have the powers of a tenant for life under the Acts, the statutory powers of the tenant for life under the Acts shall, in reference to the property affected by the assurance, and notwithstanding section fifty of the Settled Land Act, 1882, cease to be exercisable by him, and the statutory powers shall thenceforth become exercisable as if he were dead, but without prejudice to any incumbrance affecting the estate or interest assured, and to the rights to which any incumbrancer would have been entitled under section fifty aforesaid (as amended by this Act), if those powers had remained exercisable by the tenant for life.

(2) Subsection (1) of this section applies whether or not the estate or interest of the tenant for life under the settlement was in possession at the date of the assurance.

(3) Subsection (1) of this section shall not prejudice anything done by the tenant for life before the commencement of this Act, in exercise of any power operating under the Settled Land Acts, 1882 to 1890, or, unless the assurance provides to the contrary, operate to accelerate any such intervening term of years or charge as aforesaid.

(4) In this section "assurance" means any surrender, conveyance, assignment or appointment under a power (whether vested in any person solely, or jointly in two or more persons) which operates in equity to extinguish the estate or interest of the tenant for life, and "assured" has a corresponding meaning.

Amendment of section 50 of the Act of 1882.

69.—(1) Section fifty of the Settled Land Act, 1882, shall apply, and be deemed always to have applied, notwithstanding that the estate or interest of the tenant for life under the settlement was not in possession when the assignment was made or took effect by operation of law.

(2) The expression "assignee for value" in subsection (3) of section fifty of the Settled Land Act, 1882, includes persons deriving title under the original assignee.

(3) An assignee by operation of the law of bankruptcy where the assignment comes into operation after the commencement of this Act, shall be deemed to be an assignee for value within the meaning of subsection (3) of section fifty aforesaid.

(4) Where an assignment for value is made or comes into operation after the commencement of this Act, the consent of the assignee shall not be requisite for the exercise by the tenant for life of any of the powers conferred by the Acts:

Provided that—

(*a*) The assignee shall be entitled to the same or the like estate or interest in or charge on the land money or securities for the time being representing the land money or securities comprised in the assignment, as he had by virtue of the assignment in the last mentioned land, money or securities; and

(*b*) If the assignment so provides, or if it takes effect by operation of the law of bankruptcy, and after notice thereof to the trustees of the settlement, no investment or application of capital money for the time being affected by the assignment shall be made without the consent of the assignee, except an investment in securities authorised by statute for the investment of trust money; and

(*c*) Notice of the intended transaction shall, unless the assignment otherwise provides, be given to the assignee, but a purchaser shall not be concerned to see or enquire whether such notice has been given.

(5) Where the assignment for value is made before the commencement of this Act, a purchaser of the settled land shall not, after such commencement, be concerned to see or enquire whether the consent of the assignee has been obtained; and where any power conferred by the Acts is exercised after the commencement of this Act, the provisions of clauses (*a*), (*b*), and (*c*) of the last subsection shall apply for the benefit of the assignee.

(6) A trustee or personal representative who is an assignee for value shall have power and be deemed always to have had power to consent to the exercise by the tenant for life of his powers under the Acts or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested in the trust estate, or the estate of the testator or intestate.

(7) If by the original assignment, or by any subsequent disposition, the estate or interest assigned or created by the original assignment, or any part thereof, or any derivative interest is settled on persons in succession, whether subject to any prior charge or not, and there is no trustee or personal representative in whom the entirety of the estate or interest so settled is vested, then the person for the time being entitled in possession under the limitations of that settlement, whether as trustee or beneficiary, or who would, if of full age, be so entitled, and notwithstanding any charge or incumbrance subsisting or to arise under such settlement, shall have power, and be deemed always to have had power, to consent to the exercise by the tenant for life of his powers under the Acts, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested or to become interested under such settlement.

(8) Where an assignee for value, or any person who has power to consent as aforesaid under this section is an infant, the consent may be given on his behalf by his father or mother or testamentary or other guardian in the order named.

(9) The court shall have power to authorise any person interested under any assignment to consent to the exercise by the tenant for life of his powers under the Acts, or to any such investment or application of capital money as aforesaid, on behalf of himself and all other persons interested, or who may become interested under such assignment.

As to a tenant for life who has parted with his interest.

70.—(1) The following provision shall apply to a tenant for life who has by reason of bankruptcy, assignment, incumbrance, or otherwise ceased in the opinion of the court to have a substantial interest in his estate or interest in the settled land or any part thereof, namely:

If it is shown to the satisfaction of the court that such tenant for life has unreasonably refused to exercise the powers conferred on him by the Acts, or any of such powers, or consents to an order under this section, the court may, upon the application of any person interested in the settled land or the part thereof affected, make an order authorising the trustees of the settlement, to exercise in the name and on behalf of the tenant for life, the powers of a tenant for life under the Acts, or any of such powers, in relation to the settled land or the part thereof affected, either generally and in such manner and for such period as the court may think fit, or in a particular instance.

(2) While any such order is in force, the tenant for life shall not, in relation to the settled land or the part thereof affected, exercise any of the powers thereby authorised to be exercised in his name and on his behalf; but no person dealing with the tenant for life shall be affected by any such order, unless and until the order has been registered and if necessary re-registered as a lis pendens.

(3) An order may be made under this section at any time after the estate or interest of the tenant for life under the settlement has taken effect in possession, and notwithstanding that he disposed of the same when it was an estate or interest in remainder or reversion.

40 & 41 Vict. c. 18.

(4) The Settled Estates Act, 1877, is hereby repealed.

Construction.

71.—(1) This Part of this Act shall be construed with the Settled Land Acts, 1882 to 1890, as one Act and may be cited with those Acts as the Settled Land Acts, 1882 to 1922.

(2) In this Part of this Act the Settled Land Acts, 1882 to 1922, are referred to as "the Acts," and the general definitions contained in Part XI. of this Act, shall where applicable apply to the Acts, and without prejudice to the application of those general definitions, in the Acts, where the context so admits—

"Tenant for life" includes a person who under the Acts is deemed to be, or has the powers of a tenant for life;

"Limitation" includes a trust; and

"Capital money" includes securities therefor.

PART III.

AMENDMENTS OF THE CONVEYANCING ACTS.

Abolition of technicalities in regard to conveyances and deeds.

72.—(1) A conveyance of freehold land to any person without words of limitation, or any equivalent expression, shall pass to the grantee the fee simple or other the whole interest which the grantor had power to convey in such land, unless a contrary intention appears in the conveyance.

(2) A conveyance of freehold land to a corporation sole by his corporate designation without the word "successors" shall pass to the corporation the fee simple or other the whole interest which the grantor had power to convey in such land, unless a contrary intention appears in the conveyance.

(3) A person may convey or vest land to or in himself.

(4) Where after the commencement of this Act an individual executes a deed he shall either sign or place his mark against the same and sealing alone shall not be deemed sufficient.

(5) The foregoing provisions of this section apply only to conveyances and deeds executed after the commencement of this Act.

(6) Two or more persons (whether or not being trustees or personal representatives) may convey, and shall be deemed always to have been capable of conveying, any property vested in them to any one or more of themselves in like manner as they could have conveyed

such property to a third party; provided that if the persons in whose favour the conveyance is made are, by reason of any fiduciary relationship or otherwise, precluded from validly carrying out the transaction, then the conveyance shall be liable to be set aside.

Execution of instruments by or on behalf of corporations, and provisions as to corporations sole.

73.—(1) A corporation aggregate may execute a deed by having their seal affixed thereto in the presence of and attested by their clerk, secretary or other permanent officer or his deputy, and a member of the board of directors, council or other governing body of the corporation; and where the seal of the corporation is affixed to a deed, then, if the requirements of this subsection have been complied with, the deed shall be deemed to have been executed in the presence of the proper persons, and to have taken effect accordingly.

(2) The board of directors, council or other governing body of a corporation aggregate may, by resolution or otherwise, appoint an agent either generally or in any particular case, to execute on behalf of the corporation any agreement or other instrument not under seal in relation to any matter within the powers of the corporation.

(3) Where a person is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of a corporation sole or aggregate, he may as attorney sign the name of the corporation in the presence of at least one witness, and in the case of a deed affix his own seal, and such execution shall take effect and be valid in like manner as if the corporation had executed the conveyance of the interest in the property.

(4) Where a corporation aggregate is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of any person (including another corporation), then an officer appointed for that purpose by the board of directors, council or other governing body of the corporation by resolution or otherwise, may execute the deed or other instrument in the name of such person; and where an instrument appears to be executed by an officer so appointed, then, unless the contrary is proved,

the instrument shall be deemed to have been executed by an officer duly authorised.

(5) The foregoing provisions of this section apply only to deeds and instruments executed after the commencement of this Act, and in the case of powers whether the power (if any) was conferred before or after the commencement of this Act or by this Act.

(6) Notwithstanding anything contained in this section, any mode of execution or attestation authorised by law or by practice or by the statute, charter, memorandum or articles, deed of settlement or other instrument constituting the corporation or regulating the affairs thereof, shall (in addition to the modes authorised by this section) be as effectual as if this section had not been passed.

(7) Where either after or before the commencement of this Act any property or any interest therein is or has been vested in a corporation sole, the same shall, unless and until otherwise disposed of by the corporation, pass and devolve to and vest in and be deemed always to have passed and devolved to or vested in the successors from time to time of such corporation.

(8) Where either after or before the commencement of this Act there is or has been a vacancy in the office of a corporation sole or in the office of the head of a corporation aggregate (in any case in which the vacancy affects the status or powers of the corporation) at the time when, if there had been no vacancy, any interest in or charge on property would have been acquired by the corporation, such interest shall notwithstanding such vacancy vest and be deemed to have vested in the successor to such office on his appointment as a corporation sole, or in the corporation aggregate (as the case may be), but without prejudice to the right of such successor or of the corporation aggregate after the appointment of its head officer, to disclaim that interest or charge.

(9) Any contract or other transaction expressed or purported to be made with, or any appointment as a custodian or other trustee or as a personal representative expressed to be made of a corporation sole, at a time (either after or before the commencement of this Act) when there is or has been a vacancy in the office, shall on the vacancy being filled take effect and be deemed to

have taken effect as if the vacancy had been filled before the contract, transaction or appointment was expressed to be made or was capable of taking effect, and shall be capable of being enforced, accepted, disclaimed or renounced when the successor is appointed.

Abolition of acknowledgments by married women. 3 & 4 Will. 4. c. 74. 20 & 21 Vict. c. 57. 45 & 46 Vict. c. 39.

74.—(1) Every disposition (including a disclaimer) of real or personal property or any interest therein which a married woman is under the Fines and Recoveries Act, 1833, or the Married Women's Reversionary Interests Act, 1857, or any other enactment authorised to make by deed acknowledged in the manner thereby prescribed as amended by the Conveyancing Act, 1882, shall, from the date of execution of the deed of disposition, be effectual if made by her with the concurrence of her husband, but without acknowledgment.

(2) The separate examination of a married woman shall not be necessary as a preliminary to any order of the court directing payment or transfer of any money or property to her or in accordance with her directions.

(3) Where the court, under any statutory power, dispenses in any case with the concurrence of the husband, and the court is satisfied that the wife is entitled for her separate use to the property to be dealt with, the court may by the order declare that the disposition shall have the same effect as if the husband had concurred therein and had disposed of his rights and interests, and the disposition by the wife alone shall take effect accordingly without acknowledgment.

(4) This section applies only to deeds executed and orders made after the commencement of this Act, and does not render necessary the concurrence of a husband in any deed where such concurrence would not have been requisite, if this section had not been passed.

Acquisitions and dispositions of trust estates by married women. 7 Edw. 7. c. 18.

75.—(1) For removing doubts, it is hereby declared that subsection (1) of section one of the Married Women's Property Act, 1907, shall be construed as having authorised a woman who was married after the thirty-first day of December one thousand eight hundred and eighty-two, or who, if she had not been married, would, after that date, have acquired any interest in the trust property referred to in that section, or in any other trust property, to acquire and hold such property or any such interest

therein, as well as to dispose of or to join in disposing of the property, without her husband, as if she had been a feme sole; and no interest in such property shall vest or be deemed to have vested in her husband by reason only of such acquisition; and she shall accordingly acquire, or be deemed to have acquired (as well from her husband as from any other person) and shall hold or be deemed to have held every such interest as a feme sole.

(2) Section one aforesaid, as explained by this section, does not prejudicially affect any beneficial interest of the husband of any such woman; and in those sections "disposition" includes a disclaimer and an assent, and "dispose of" has a corresponding meaning.

Abolition of enrolment of disentailing assurances, &c. 3 & 4 Will. 4. c. 74.

76.—(1) Every assurance or instrument executed or made after the commencement of this Act which, under the provisions of sections forty-one, forty-six, fifty-eight, fifty-nine, seventy-one, and seventy-two of the Fines and Recoveries Act, 1833, or otherwise under that Act (as extended by this Act), would have been required to be enrolled in the Central Office in England, shall be as effectual for all purposes, without such enrolment, as if it had been duly enrolled within the time prescribed by the said Act for such enrolment.

(2) In this section "assurance" includes a vesting order operating as a disentailing assurance, whether made for barring an estate tail or enlarging a base fee or otherwise.

(3) This section applies to entailed interests authorised to be created by this Act as well as to estates tail created before the commencement of this Act.

Power for tenant in tail in possession to dispose of property by specific devise or bequest.

77.—(1) A tenant in tail of full age shall have power to dispose by will, by means of a devise or bequest referring specifically either to the property or to the instrument under which it was acquired or to entailed property generally—

(*a*) of all property of which he is tenant in tail in possession at his death; and

(*b*) of property to be sold where the money arising from the sale is subject to be invested in the purchase of property to be settled so that if purchased he would, at his death, have been tenant in tail in possession thereof; and

(*c*) of money subject to be invested in the purchase of lands, of which if it had been so invested he would have been tenant in tail in possession at his death;

in like manner as if after barring the entail he had in equity been tenant in fee-simple or absolute owner thereof at his death; but, subject to and in default of any such disposition by will, such property shall devolve in the same manner as if this section had not been passed.

(2) This section applies to entailed interests authorised to be created by this Act as well as to estates tail created before the commencement of this Act, but does not extend to a tenant in tail who is by statute restrained from barring or defeating his estate tail, whether the land or property in respect whereof he is so restrained was purchased with money provided by Parliament in consideration of public services or not, or to a tenant in tail after possibility of issue extinct, and shall not render any interest which is not disposed of by the will of the tenant in tail liable for his debts or other liabilities.

(3) In this section the expressions "tenant in tail" and "money subject to be invested in the purchase of lands" have the same meanings as in the Fines and Recoveries Act, 1833; and the expression "tenant in tail" includes an owner of a base fee in possession who has power to enlarge the base fee into a fee-simple without the concurrence of any other person.

(4) This section only applies to wills executed after the commencement of this Act, or confirmed or republished by codicil executed after such commencement.

Relief against forfeiture of leases on assignment, &c., and as to powers to distrain.

78.—(1) The words "To a covenant or condition "against assigning, underletting, parting with the "possession, or disposing of the land leased; or" in subclause (i) of subsection (6) of section fourteen of the Conveyancing Act, 1881, are hereby repealed. This subsection only applies where the breach occurs after the commencement of this Act and the foregoing repeal shall not apply where the land leased has been assigned, underlet, parted with, or disposed of, to a limited company.

(2) For removing doubts it is hereby declared—

(*a*) That a power of distress in regard to land, given by way of indemnity against a rent or any part thereof payable in respect of any land, is not and shall not be deemed ever to have

been a bill of sale within the meaning of the Bills of Sale Acts, 1878 and 1882, as amended by any subsequent enactment:

41 & 42 Vict. c. 31 and 45 & 46 Vict. c. 43.

(*b*) That the benefit of all covenants and powers given by way of indemnity against a rent or any part thereof payable in respect of land is and shall be deemed always to have been annexed to the land intended to be indemnified, and may be enforced by the estate owner for the time being of the whole or any part of that land, notwithstanding that the benefit may not have been expressly apportioned or assigned to him or to any of his predecessors in title.

Powers of attorney relating to land to be filed.

79.—(1) Where an instrument creating a power of attorney confers a power to dispose of or deal with any interest in or charge upon land, the instrument or a certified copy thereof or of such portions thereof as refer to or are necessary to the interpretation of such power shall be filed at the Central Office pursuant to section forty-eight of the Conveyancing Act, 1881, unless the instrument only relates to one transaction and is to be handed over on the completion of that transaction:

Provided that, if the instrument relates to land or a charge registered under the Land Transfer Acts, 1875 and 1897, the instrument or a certified copy thereof or of such portions thereof as aforesaid shall be filed at the Land Registry, and it shall not be necessary to file it at the Central Office unless it also relates to land or a charge not so registered, in which case the instrument or a certified copy thereof or of such portions thereof as aforesaid shall be filed at the Central Office and an office copy shall be filed at the Land Registry.

(2) Notwithstanding any stipulation to the contrary, a purchaser of any interest in or charge upon land (not being land or a charge registered as aforesaid) shall be entitled to have any instrument creating a power of attorney which affects his title, or an office copy thereof or of the material portions thereof delivered to him free of expense.

(3) This section only applies to instruments executed after the commencement of this Act.

Powers of attorney for value and amendment of section 47

80.—(1) A power of attorney given for valuable consideration may be given, and shall be deemed to have been always capable of being given, to a purchaser of property or any interest therein, and to the persons

deriving title under him thereto; and those persons shall be the duly constituted attorneys for all the purposes of the power, but without prejudice to any right to appoint substitutes given by the power. of the Act of 1881.

(2) This section only applies to powers of attorney created by instruments executed after the thirty-first day of December, one thousand eight hundred and eighty-two.

(3) This section shall not authorise the persons deriving title under the donee of the power to execute, on behalf of the registered proprietor, an instrument relating to registered land to which effect is to be given on the register.

(4) The following provision shall have effect as if inserted at the end of subsection (1) of section forty-seven of the Conveyancing Act, 1881, namely:—

> "A statutory declaration by an attorney to the effect that he has not received any notice or information of the revocation of such power of attorney by death or otherwise shall, if made immediately before or within three months after any such payment or act as aforesaid, be taken to be conclusive proof of such non-revocation at the time when such payment or act was made or done."

Effect of bankruptcy of the mortgagor as respects the power for the mortgagee to sell or appoint a receiver.

81.—(1) Where the statutory or express power for a mortgagee either to sell or to appoint a receiver is made exercisable by reason of the mortgagor committing an act of bankruptcy or being adjudged a bankrupt, such power shall not become exercisable only on account of the act of bankruptcy or adjudication, without the leave of the court.

(2) After the words "or that due notice was not given" in subsection (2) of section twenty-one of the Conveyancing Act, 1881, the words "or that leave of the court was not obtained" are hereby inserted.

(3) This section applies only where the mortgage deed is executed after the commencement of this Act; and in this section "act of bankruptcy" includes the filing of a petition by any person against the mortgagor, and the making of a receiving order.

Transfers of mortgages.

82.—(1) A deed executed by a mortgagee purporting to transfer his mortgage or the benefit thereof shall, unless a contrary intention is therein expressed, and subject to any provisions therein contained, operate to transfer to the transferee the right to demand, sue for, recover and give receipts for the mortgage money, or the unpaid part thereof, and the interest then due, if any, and thenceforth to become due thereon, and the benefit of all securities for the same, and the benefit of and the right to sue on all covenants with the mortgagee, and the right to exercise all powers of the mortgagee, and all the estate and interest in the mortgaged property then vested in the mortgagee, subject to redemption or cesser, but as to such estate and interest subject to the right of redemption then subsisting.

(2) In this section the expressions "mortgagee" and "mortgage money" have the same meanings as in the Conveyancing Act, 1881, but "mortgagee" includes a chargee by way of legal mortgage, and the expression "transferee" includes his executors, administrators, and assigns.

(3) A transfer of mortgage may be made in the form contained in Part I. of the Eleventh Schedule to this Act, with such variations and additions, if any, as the circumstances may require.

(4) This section applies, whether the mortgage transferred was made before or after the commencement of this Act and whether by way of statutory mortgage or not, but applies only to transfers made after the commencement of this Act.

(5) This section does not extend to a transfer of a bill of sale of chattels by way of security.

Amendments of sections 5, 19, 23 and 24 of the Act of 1881 and of the Act of 1882, and of section 8 of the Act of 1911.

83.—(1) For removing doubts, it is hereby declared as follows:—

(i) The expression "the mortgaged property" where first used in clause (ii) of subsection (1) of section nineteen of the Conveyancing Act, 1881, and where used in clause (iii) of the same subsection, and in section twenty-four of the said Act means and shall be deemed always to

have meant the property which, or the estate or interest in property which is mortgaged;

(ii) The expression "bankruptcy" in the Conveyancing Act, 1882, has and shall be deemed to have always had the same meaning as in the Conveyancing Act, 1881.

(2) The power for the court under section five of the Conveyancing Act, 1881, to declare land to be freed from an incumbrance shall extend to other land affected by the incumbrance besides the land sold or exchanged; and this power may be exercised, either after or without notice to the incumbrancer, notwithstanding that on a previous occasion the order was confined to the land then sold or exchanged or part thereof; and in that section (as amended) references to sales shall include exchanges.

(3) The words "effected under the mortgage deed or under this Act" in subsection (3) of section twenty-three of the Conveyancing Act, 1881, are hereby repealed, and the words "of mortgaged property against loss or damage "by fire or otherwise effected under this Act or for the "maintenance of which the mortgagor is liable under the "mortgage deed" are hereby inserted in their place, and are also inserted after the word "insurance" in subsection (4) of section twenty-three aforesaid.

(4) At the end of subsection (1) of section eight of the Conveyancing Act, 1911, the words "or other the trustees or trustee for the time being of the trust" are hereby inserted and that subsection shall be construed as if those words had always formed part thereof.

Reconveyances of mortgages by endorsed receipts.

84.—(1) A receipt endorsed on, written at the foot of, or annexed to, a mortgage for all money thereby secured, which states the name of the person who pays the money and is executed by the person in whom the mortgaged property is vested and who is legally entitled to give a receipt for the mortgage money shall operate, without any reconveyance, surrender, or release—

(*a*) In the case of a mortgage taking effect by demise or subdemise, as a surrender of the term, as respects the subject matter of the mortgage,

so as to determine the term or merge the same in the reversion immediately expectant thereon;

(*b*) Where the mortgage does not take effect by demise or subdemise, then as a reconveyance thereof to the extent of the interest which is the subject matter of the mortgage, to the person who immediately before the execution of the receipt was entitled to the equity of redemption;

(*c*) And in all cases, as a discharge of the mortgaged property from all principal money and interest secured by, and from all claims under the mortgage.

(2) Provided that (except as hereinafter mentioned) where, by the receipt, the money appears to have been paid by a person who is not entitled to the immediate equity of redemption, then, unless it is otherwise expressly provided, the receipt shall operate as if the benefit of the mortgage had by deed been transferred to him; but this provision shall not apply where the mortgage is paid off out of capital money, or other money in the hands of a personal representative or trustee properly applicable for the discharge of the mortgage, unless it is expressly provided that the receipt is to operate as a transfer.

(3) Nothing in this section shall confer on a mortgagor a right to keep alive a mortgage, paid off by him, so as to affect prejudicially any subsequent incumbrancer; and where there is no right to keep the mortgage alive, the receipt shall not operate as a transfer.

(4) This section shall not affect the right of any person to require a reassignment, surrender, release, or transfer to be executed in lieu of a receipt.

(5) A receipt may be given in the form contained in Part II. of the Eleventh Schedule to this Act, with such variations and additions, if any, as may be deemed expedient; and where it takes effect under this section, it shall (subject as hereinafter provided) be liable to the same stamp duty as if it were a reconveyance under seal.

(6) In a receipt given under this section the same covenants shall be implied as if the person who executes

the receipt had by deed been expressed to convey the property as mortgagee.

(7) Where the mortgage consists of a mortgage and a further charge or of more than one deed, it shall be sufficient for the purposes of this section, if the receipt refers either to all the deeds whereby the mortgage money is secured or to the aggregate amount of the mortgage money thereby secured and is endorsed on, written at the foot of, or annexed to, one of the mortgage deeds.

(8) In this section the expressions "mortgage" "mortgage money" "mortgagor" and "mortgagee" have the same meanings as in the Conveyancing Act, 1881.

(9) This section applies to the discharge of a charge by way of legal mortgage and a mortgage, whether made by way of statutory mortgage or not, executed before or after the commencement of this Act, but only as respects discharges effected after such commencement.

(10) The provisions of this section relating to the operation of a receipt shall (in substitution for the like statutory provisions relating to receipts given by or on behalf of a building, friendly, industrial or provident society) apply to the discharge of a mortgage made to any such society, provided that the receipt is executed in the manner required by the statute relating to the society, but nothing in this section shall render a receipt given by or on behalf of any such society liable to any stamp duty which would not have been otherwise payable.

(11) This section shall not apply to the discharge of a charge or incumbrance registered under the Land Transfer Acts, 1875 and 1897. 38 & 39 Vict. c. 87. 60 & 61 Vict. c. 65.

Notice of trusts affecting mortgage debts.

85.—(1) A purchaser from a mortgagee under his statutory or express power of sale, and a transferee for money or money's worth of a mortgage, shall not be concerned with any trust affecting the mortgage money or the income thereof, whether or not he has notice of the trust, and may assume unless the contrary appears in the instruments relating to the mortgage, that the mortgagees (if more than one) are entitled to the mortgage money on a joint account, and that the mortgagee or mortgagees has or have power to give valid receipts for the purchase money or mortgage money and the income

thereof (including any arrears of interest) without investigating the equitable title to the mortgage debt or the appointment or discharge of trustees in reference thereto.

(2) This section applies to mortgages made before or after the commencement of this Act, but only as respects sales and transfers effected after such commencement.

Management of land of infants or persons entitled contingently.

86.—(1) Where any person is contingently entitled to land, subsections (1), (2), (3), and (7) of section forty-two of the Conveyancing Act, 1881 (as amended by any subsequent enactment), shall, subject to any prior interests or charges affecting that land, apply until his interest vests, or, if his interest vests during his minority, until he attains the age of twenty-one years.

(2) This section applies only where a person becomes contingently entitled under an instrument coming into operation after the commencement of this Act.

Contingent and future testamentary gifts to carry the intermediate income. 39 & 40 Geo. 3. c. 98.

87.—(1) A contingent or future specific devise or bequest of property, whether real or personal, and a contingent residuary devise of freehold land, and a specific or residuary devise of freehold land to trustees upon trust for persons whose interests are contingent or executory shall, subject to the provisions of the Accumulations Act, 1800, carry the intermediate income of that property from the death of the testator, except so far as such income, or any part thereof, may be otherwise expressly disposed of.

(2) This section applies only to wills coming into operation after the commencement of this Act.

Power to apply income for maintenance, and to accumulate surplus income during a minority.

88.—(1) Where any property is held by trustees in trust for any person for any interest whatsoever, whether vested or contingent, then subject to any prior interests or charges affecting that property—

(i) During the infancy of such person, if his interest so long continues, the trustees may, at their sole discretion, pay to his parent or guardian, if any, or otherwise apply for or towards his maintenance, education or benefit, the whole or such part (if any) as may under all the circumstances be reasonable of the income of that property, whether there is any other fund applicable to the same purpose, or any person bound by law

to provide for his maintenance or education, or not; and

(ii) If such person on attaining the age of twenty-one years has not a vested interest in such income, the trustees shall thenceforth pay the income of that property and of any accretion thereto under subsection (2) of this section to him, until he either attains a vested interest therein or dies, or until failure of his interest:

(iii) Provided that, in deciding whether the whole or any part of the income of the property is during a minority to be paid or applied for the purposes aforesaid, the trustees shall have regard to the age of the infant and his requirements and generally to the circumstances of the case, and in particular to what other income (if any) is applicable for the same purposes; and where trustees have notice that the income of more than one fund is applicable for those purposes then, so far as practicable, unless the entire income of the funds is paid or applied as aforesaid or the court otherwise directs, a proportionate part only of the income of each fund shall be so paid or applied.

(2) During the infancy of such person, if his interest so long continues, the trustees shall accumulate all the residue of that income in the way of compound interest by investing the same and the resulting income thereof from time to time on securities on which they are by the settlement, if any, or by law, authorised to invest trust money, and shall hold those accumulations--

(i) If such person attains the age of twenty-one years, or marries under that age, and his interest in such income during his infancy or until his marriage is a vested interest, or, if such person on attaining the age of twenty-one years or marriage under that age becomes entitled to the property from which such income arose in fee simple, absolute or determinable, or absolutely, or for an entailed interest then in trust for such person absolutely, but without prejudice to any provision with respect thereto contained in any settlement by him made under any statute during his infancy, and so that the receipt of

such person after marriage, and though still an infant, shall be a good discharge; and

(ii) In any other case (and notwithstanding that such person had a vested interest in such income) as an accretion to the capital of the property from which such accumulations arose, and as one fund with such capital for all purposes, and so that, if such property is settled land, such accumulations shall be held upon the same trusts as if the same were capital money arising therefrom;

but the trustees may, at any time during the infancy of such person if his interest so long continues, apply those accumulations, or any part thereof, as if the same were income arising in the then current year.

(3) This section applies in the case of a contingent interest only if the limitation or trust carries the intermediate income of the property; but it applies to a future or contingent legacy by the parent of, or a person standing in loco parentis to the legatee, if and for such period as, under the general law, the legacy carries interest for the maintenance of the legatee, and in any such case as last aforesaid the rate of interest shall be five pounds per centum per annum.

(4) This section shall apply to a vested annuity in like manner as if the annuity were the income of property held by trustees in trust to pay the income thereof to the annuitant for the same period for which the annuity is payable, save that in any case accumulations made during the infancy of the annuitant shall be held in trust for the annuitant or his personal representatives absolutely.

(5) Section forty-three and subsections (4) and (5) of section forty-two of the Conveyancing Act, 1881, are hereby repealed.

(6) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, under which the interest arises, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(7) This section and the repeals therein apply only where that instrument comes into operation after the commencement of this Act.

Accumulations of surplus income.

89.—(1) For removing doubts, it is hereby declared that where accumulations of surplus income are made during a minority under any statutory power or under the general law, the period for which such accumulations are made is not, whether the trust was created or the accumulations were made before or after the commencement of this Act, to be reckoned as one of the periods for which accumulations are authorised to be made under the Accumulations Act, 1800 (as amended by the Accumulations Act, 1892), and accordingly an express trust for accumulation for any other authorised period shall not be deemed to have been invalidated, or become invalid, by reason of accumulations also having been made during a minority as aforesaid.

(2) This section applies to trusts created before or after the commencement of this Act.

Power to discharge or modify restrictive covenants affecting land.

90.—(1) The Authority hereinafter defined shall (without prejudice to the jurisdiction of the court) have power from time to time, on the application of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction (subject or not to the payment by the applicant of compensation to any person suffering loss in consequence of the order) upon being satisfied—

(*a*) That by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Authority may deem material, the restriction ought to be deemed obsolete, or that the continued existence thereof would impede the reasonable user of the land for public or private purposes, without securing practical benefits to other persons or, as the case may be, would unless modified so impede such user; or

(*b*) That the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by implication, by their acts or

omissions, to the same being discharged or modified, or that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction:

Provided that no compensation shall be payable in respect of the discharge or modification of a restriction by reason of any advantage thereby accruing to the owner of the land affected by the restriction, unless the person entitled to the benefit of the restriction also suffers loss in consequence of the discharge or modification, nor in excess of such loss; but this provision shall not affect any right to compensation where, by reason of the imposition of the restriction, the amount of the consideration paid for the acquisition of the land was reduced.

(2) The court shall have power in any proceedings on the application of any person interested—

(*a*) To declare whether or not in any particular case any freehold land is affected by a restriction imposed by any instrument; or

(*b*) To declare what, upon the true construction of any instrument purporting to impose a restriction, is the nature and extent of the restriction thereby imposed and whether the same is enforceable and if so by whom.

(3) The Authority shall, before making any order under this section, direct such enquiries (if any) to be made of any local authority, or such notices (if any), whether by way of advertisement or otherwise, to be given to such of the persons who appear to be entitled to the benefit of the restriction intended to be discharged, modified, or dealt with as, having regard to any enquiries notices or other proceedings previously made, given or taken, the Authority may think fit.

(4) The Authority may make rules in relation to any applications to be made to the Authority under this section and may revoke or vary any such rules, and with the consent of the Treasury may prescribe the fees to be paid in connexion with any application to the Authority.

(5) Any order made under this section shall be binding on all persons, whether ascertained or of full age or capacity or not, then entitled or thereafter (subject to the order) capable of becoming entitled to the benefit of any restriction which is thereby discharged, modified, or dealt with, and whether such persons are parties to the

proceedings or have been served with notice or not, but any order made by the Authority shall, in accordance with rules of court, be subject to appeal to the court.

(6) An order may be made under this section notwithstanding that any instrument which is alleged to impose the restriction intended to be discharged, modified, or dealt with, may not have been produced to the court or the Authority, and the court or the Authority may act on such evidence of that instrument as it may think sufficient.

(7) This section applies to restrictions whether subsisting at the commencement of this Act or imposed thereafter, and whether the freehold land affected thereby is registered or not, and, in the case of registered land, the Chief Land Registrar shall give effect on the register to the order when made, but this section does not apply where the restriction was imposed on the occasion of a disposition made gratuitously or for a nominal consideration for public purposes.

(8) Where any proceedings by action or otherwise are taken to enforce a restrictive covenant, any person against whom the proceedings are taken, may, in such proceedings apply to the court for an order staying the proceedings and giving leave to apply to the Authority under this section.

(9) In this section "the Authority" means such one or more of the Official Arbitrators appointed for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919, as may be selected by the Reference Committee under that Act. 9 & 10 Geo. 5. c. 57.

(10) This section does not apply to restrictions imposed by the Commissioners of Works under this Act for the protection of any Royal Park or Garden or to restrictions of a like character imposed upon the occasion of any enfranchisement effected before the commencement of this Act in any manor vested in His Majesty in right of the Crown or the Duchy of Lancaster.

(11) Where a term of more than seventy years is created in land (whether before or after the commencement of this Act) this section shall, after the expiration of fifty years of the term, apply to restrictions affecting such leasehold land in like manner as it would have applied had the land been freehold:

Provided that this subsection shall not apply to mining leases or leases for mining purposes.

Creation of rentcharges.

91.—(1) A rentcharge or other annual sum (not being rent incident to a reversion) payable half yearly or otherwise may be granted, reserved, charged or created out of or on another rentcharge or annual sum (not being rent incident to a reversion) charged on or payable out of land or on or out of the income of land, in like manner as the same could have been made to issue out of land.

(2) If at any time the annual sum so created or any part thereof is unpaid for twenty-one days next after the time appointed for any payment in respect thereof, the person entitled to receive the annual sum shall (without prejudice to any prior interest or charge) have power to appoint a receiver of the annual sum charged or any part thereof, and the provisions of section twenty-four of the Conveyancing Act, 1881, shall apply in like manner as if such person were a mortgagee entitled to exercise the power of sale conferred by that Act, and the annual sum charged were the mortgaged property and the person entitled thereto were the mortgagor.

(3) The power to appoint a receiver conferred by this section shall (where the annual sum is charged on a rentcharge) take effect in substitution for the remedies conferred, in the case of annual sums charged on land, by section forty-four of the Conveyancing Act, 1881, and section six of the Conveyancing Act, 1911, shall apply as if that power had been conferred by section forty-four aforesaid.

1 & 2 Geo. 5. c. 37.

(4) This section applies to annual sums expressed to be created before as well as after the commencement of this Act and shall, but without prejudice to any order of the court made before the commencement of this Act, operate to confirm any annual sum which would have been validly created if this section had been in force.

Amendment of section 45 of the Conveyancing Act, 1881.

92.—(1) If the Minister is satisfied—

(*a*) that any person who has been in receipt of a rent, or claims to be entitled thereto, is unable or unwilling to prove his title either to dispose thereof absolutely, or to give an absolute discharge for the capital value thereof, or neglects to apply to any competent body or person for any requisite order or consent; or

(*b*) that a person entitled to the rent or any part thereof cannot be found or ascertained; or

(*c*) that by reason of complications in the title to the rent, or the want of two or more trustees, or for any other reason a tender of the redemption money cannot be effected, or cannot be effected without incurring or involving unreasonable cost or delay,

the Minister may authorise the owner or other person interested in the land affected by the rent, to pay the amount of the redemption money certified by the Minister into court, to an account entitled in the matter of the rent and of the land affected.

(2) On proof to the Minister of such payment into court he shall certify that the rent has been redeemed and the provisions of subsection (3) of section forty-five of the Conveyancing Act, 1881, shall apply to such certificate.

(3) Any person claiming to be interested in the fund in court, or who would have been interested in the rent had it not been redeemed, may apply to the court for an order giving directions for the payment, to the persons entitled to give a receipt for the same, of the fund in court or any part thereof, or of the income thereof, and it shall not be necessary to serve the owner of the land or the Minister with notice of the proceedings.

(4) Where any person interested in the whole or any part of the land affected by the rent desires to effect a discharge of a part of the land, and the remainder of the land is not exonerated or indemnified from the rent by means of the aforesaid part, the Minister may, on his application, by a certificate, apportion the rent between the aforesaid part of the land and the remainder of the land affected (regard being had to the security which will be left for the payment of any part of the rent, and to any apportionment which is not binding on the owner of the rent), and any apportioned part of the rent shall be redeemable under section forty-five aforesaid, as hereby amended, and, on such redemption, the part of the land to which the redemption applies shall be discharged from the entire rent.

(5) Rules may be made by the Minister for regulating proceedings to be taken under section forty-five aforesaid and this section, and as to the manner in which costs are to be borne by the respective parties. And all decisions of the Minister made under section forty-five aforesaid and this section shall (subject only to such appeal to the court as may be prescribed by rules of court) be final.

(6) Section forty-five aforesaid (as amended by this section) does not apply to tithe rentcharge or other payment redeemable under the Tithe Acts, 1836 to 1918, or to a rent reserved on a lease or tenancy, and subsections (5) and (6) of that section are hereby repealed.

(7) "Rent" in that section (as so amended) includes a rent reserved on a sale, or made payable under a grant or licence (not operating as an agreement for a lease or tenancy) for building purposes, also a compensation rentcharge created under Part VI. of this Act, and that section (as so amended) applies whether the rent was created before or after the commencement of this Act.

(8) Where the rent (being perpetual) was reserved on a sale, or was made payable under a grant or licence for building purposes, the redemption money shall be such sum as would according to the average price, at the date of redemption, of such Government securities as may for the time being be prescribed by the Treasury, yield annual dividends equal to the amount of the yearly rent redeemed.

(9) Section forty-five aforesaid, as amended by this section, applies whether or not the rent is settled or is held on trust for sale, or on trust for charitable, ecclesiastical, public or other purposes, or is subject to incumbrances.

Apportionment of charges payable for redemption of tithe rentcharge. 17 & 18 Vict. c. 97.

93.—(1) An order of apportionment of a charge on land may be made by the Minister under sections ten to fourteen (inclusive) of the Inclosure Act, 1854, on the application of any person interested, according to the provisions of the Inclosure Acts, 1845 to 1882, in the land charged or any part thereof without the concurrence of any other person: Provided that the Minister may, in any such case, on the application of the person interested as aforesaid in the annuity, require as a condition of making the order that any apportioned part of the annuity which does not exceed the yearly sum of two pounds shall be redeemed forthwith.

(2) In section eleven of the Inclosure Act, 1854, the proviso to that section, and in section thirteen the words "so far as the same has been apportioned upon "the lands of persons interested and making application "as aforesaid" are hereby repealed.

Thirty years substituted for forty years as the root of title.

94.—(1) In the completion of any contract of sale of land made after the commencement of this Act, and subject to any stipulation to the contrary in the contract, thirty years shall be substituted as the period of commencement of title which a purchaser may require in place of forty years, the present period of such commencement; nevertheless earlier title than thirty years may be required in cases similar to those in which earlier title than forty years may now be required.

37 & 38 Vict. c. 78.

(2) Section one of the Vendor and Purchaser Act, 1874, is hereby repealed.

Provisions as to constructive notice.

95.—(1) For removing doubts, it is hereby declared that a purchaser shall not be deemed to be or ever to have been affected with notice of any matter or thing of which, if he had investigated the title or made enquiries in regard to matters prior to the period of commencement of title fixed by this Act, or by any other statute, he might have had notice, unless he actually makes such investigation or enquiries.

(2) Where, by reason of section two of the Vendor and Purchaser Act, 1874, or of sections three or thirteen of the Conveyancing Act, 1881, an intended lessee or assign is not (apart from express contract) entitled to call for the title to the freehold or to a leasehold reversion (as the case may be), he shall not, where the contract is made after the commencement of this Act, be deemed to be affected with notice of any matter or thing of which, if he had contracted that such title should be furnished, he might have had notice.

Covenants binding land.

96.—(1) A covenant and a bond and an obligation or contract under seal made after the thirty-first December, eighteen hundred and eighty-one, shall bind the real estate as well as the personal estate of the person making the same if and so far as a contrary intention is not expressed in the covenant, bond, obligation, or contract. This subsection extends to a covenant implied by virtue of the Conveyancing Act, 1881.

(2) Every covenant running with the land entered into before the commencement of this Act shall take effect subject to the provisions of this Act, and accordingly the benefit or burden of every such covenant shall, subject as aforesaid, vest in or bind the persons who by

virtue of this Act succeed to the title of the covenantee or the covenantor, as the case may be.

(3) The benefit of a covenant relating to land entered into after the commencement of this Act may be made to run with the land without the use of the word "heirs" if the covenant is of such a nature that the benefit could have been made to run with the land before the commencement of this Act, and if an intention that the benefit shall pass to the successors in title of the covenantee appears from the deed containing the covenant.

(4) For the purposes of this section, a covenant runs with the land when the benefit or burden of it, whether at law or in equity, passes to the successors in title of the covenantee or the covenantor, as the case may be.

Contracts entered into by a person with himself and another or others.

97.—(1) Any covenant (whether express or implied) or agreement entered into by a person with himself and another or others shall be construed and be capable of being enforced in like manner as if the covenant or agreement had been entered into with the other or others.

(2) This section applies to covenants implied under section seven of the Conveyancing Act, 1881, in the case of a person who conveys or is expressed to convey to himself and another person or other persons.

(3) This section applies to covenants or agreements entered into, or implied, before or after the commencement of this Act, but without prejudice to any order of the court made before such commencement.

As to the rule as to perpetuities.

98.—(1) For removing doubts, it is hereby declared that the rule of law relating to perpetuities does not apply and shall not be deemed ever to have applied—

(*a*) To any power to distrain on or to take possession of land or the income thereof given by way of indemnity against a rent, whether charged upon or payable in respect of any part of that land or not; or

(*b*) To any rentcharge created only as an indemnity against another rentcharge, although the indemnity rentcharge may only arise or become payable on breach of a condition or stipulation: or

(*c*) To any power, whether exercisable on breach of a condition or stipulation or not, to retain or withhold payment of any instalment of a rent-charge as an indemnity against another rent-charge; or

(*d*) To any grant, exception, or reservation of any right of entry on, or user of, the surface of land or of any easements, rights, or privileges over or under land for the purpose of winning, working, inspecting, measuring, converting, manufacturing, carrying away, and disposing of mines and minerals; inspecting, grubbing up, felling and carrying away timber and other trees, and the tops and lops thereof; executing repairs, alterations, or additions to any adjoining land, or the buildings and erections thereon; or constructing, laying down, altering, repairing, renewing, cleansing, and maintaining sewers, watercourses, cesspools, gutters, drains, water-pipes, gas-pipes, electric wires or cables or other like works.

(2) This section applies to instruments coming into operation before or after the commencement of this Act.

Validation of certain gifts void for remoteness.

99.—(1) Where in a will, settlement, or other instrument the absolute vesting either of capital or income of property, or the ascertainment of a beneficiary or class of beneficiaries, is made to depend on the attainment by the beneficiary or members of the class of an age exceeding twenty-one years, and thereby the gift to that beneficiary or class or any member thereof, or any gift over, remainder, executory limitation, or trust arising on the total or partial failure of the original gift, is, or but for this section would be, rendered void for remoteness, the will, settlement, or other instrument shall take effect for the purposes of such gift, gift over, remainder, executory limitation, or trust as if the absolute vesting or ascertainment aforesaid had been made to depend on the beneficiary or member of the class attaining the age of twenty-one years, and that age shall be substituted for the age stated in the will, settlement, or other instrument.

(2) This section applies to any instrument executed after the commencement of this Act and to any testamentary appointment (whether made in exercise of a general

or special power) devise, or bequest contained in the will of a person dying after such commencement, whether the will is made before or after such commencement.

(3) This section applies without prejudice to any provision whereby the absolute vesting or ascertainment is also made to depend on the marriage of any person, or any other event which may occur before the age stated in the will, settlement, or other instrument is attained.

Protection of purchasers claiming under certain void appointments.

100.—(1) An instrument purporting to exercise a power of appointment over property, which, in default of and subject to any appointment, is held in trust for a class of persons of whom the appointee is one, shall not (save as hereinafter provided) be void on the ground of fraud on the power as against a purchaser in good faith:

Provided that, if the interest appointed exceeds in amount or value, the interest in such property to which immediately before the execution of the instrument the appointee was presumptively entitled under the trust in default of appointment, having regard to any advances in his favour and to any hotchpot provision, the protection afforded by this section to a purchaser shall not extend to such excess.

(2) In this section "a purchaser in good faith" means a person dealing with an appointee of the age of not less than twenty-five years for valuable consideration in money or money's worth, and without notice of the fraud, or of any circumstances from which, if reasonable inquiries had been made, the fraud might have been discovered.

(3) Persons deriving title under any purchaser entitled to the benefit of this section shall be entitled to the like benefit.

(4) This section applies to instruments coming into operation before or after the commencement of this Act, but only to dealings effected after the commencement of this Act.

Amendment of section 65 of the Conveyancing Act, 1881.

101.—(1) A rent not exceeding the yearly sum of one pound which has not been collected or paid for a continuous period of twenty years or upwards shall, for the purposes of section sixty-five of the Conveyancing Act, 1881, be deemed to have ceased to be payable:

Provided that, of the said period, at least five years must have elapsed after the commencement of this Act.

(2) Where a rent, incident to a reversion expectant on a term to which section sixty-five aforesaid (as amended by any subsequent enactment) applies, is deemed to have ceased to be payable for the purposes aforesaid, then no claim for such rent or for any arrears thereof shall be capable of being enforced.

Rights of the public over waste land and commons.

102.—(1) From and after the commencement of this Act members of the public shall, subject as hereinafter provided, have rights of access for air and exercise to any land which is a metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 to 1898, or manorial waste or a common which is wholly or partly situated within a borough or urban district, and to any land which at the commencement of this Act is subject to rights of common and to which this section may from time to time be applied in manner hereinafter provided:

Provided that—

(*a*) such rights of access shall be subject to any Act, scheme, or provisional order for the regulation of the land, and to any byelaw or regulation made thereunder; and

(*b*) the Minister shall, on the application of any person entitled as lord of the manor or otherwise to the soil of the land, or entitled to any commonable rights affecting the land, impose such limitations on and conditions as to the exercise of the rights of access or as to the extent of the land to be affected as, in the opinion of the Minister, are necessary or desirable for preventing any estate, right or interest of a profitable or beneficial nature in, over, or affecting the land being injuriously affected, or for protecting any object of historical interest and, where any such limitations or conditions are so imposed, the rights of access shall be subject thereto; and

(*c*) such rights of access shall not include any right to draw or drive upon the land a carriage, cart, caravan, truck, or other vehicle, or to camp or light any fire thereon; and

(*d*) the rights of access shall cease to apply to any land over which the commonable rights are extinguished under any statutory provision, and to any land over which the commonable

rights are otherwise extinguished if the council of the county or county borough in which the land is situated by resolution assent to its exclusion from the operation of this section, and the resolution is approved by the Minister.

(2) The lord of the manor or other person entitled to the soil of any land subject to rights of common may by deed, revocable or irrevocable, declare that this section shall apply to the land, and upon such deed being deposited with the Minister the land shall, so long as the deed remains operative, be land to which this section applies.

(3) Where limitations or conditions are imposed by the Minister under this section, they shall be published by such person and in such manner as the Minister shall direct.

(4) Any person who, without lawful authority, shall draw or drive upon any land to which this section applies any carriage, cart, caravan, truck, or other vehicle, or shall camp or light any fire thereon, or who shall fail to observe any limitation or condition imposed by the Minister under this section in respect of any such land, shall be liable on summary conviction to a fine not exceeding forty shillings for each offence.

(5) Nothing in this section shall prejudice or affect the right of any person to get and remove mines or minerals or to let down the surface of the manorial waste or common.

Restriction of inclosure of commons.

103.—(1) From and after the commencement of this Act, the erection of any building or fence, or the construction of any other work, whereby access to land to which this section applies is prevented or impeded, shall not be lawful unless the consent of the Minister thereto is obtained, and in giving or withholding his consent the Minister shall have regard to the same considerations and shall, if necessary, hold the same inquiries as are directed by the Commons Act, 1876, to be taken into consideration and held by the Minister before forming an opinion whether an application under the Inclosure Acts, 1845 to 1882, shall be acceded to or not.

39 & 40 Vict. c. 56.

(2) Where any building or fence is erected, or any other work constructed without such consent as is required by this section, the county court within whose jurisdiction the land is situated, shall, on an application being made by the council of any county or borough or district concerned,

or by the lord of the manor or any other person interested in the common, have power to make an order for the removal of the work, and the restoration of the land to the condition in which it was before the work was erected or constructed, but any such order shall be subject to the like appeal as an order made under section thirty of the Commons Act, 1876.

(3) This section shall apply to any land which at the commencement of this Act is subject to rights of common: Provided that this section shall cease to apply to any land over which the rights of common are extinguished under any statutory provision, and to any land over which the rights of common are otherwise extinguished, if the council of the county or county borough in which the land is situated by resolution assent to its exclusion from the operation of this section and the resolution is approved by the Minister.

(4) This section shall not apply to any building or fence erected or work constructed if specially authorised by Act of Parliament, or in pursuance of an Act of Parliament or Order having the force of an Act, or if lawfully erected or constructed in connexion with the taking or working of minerals in or under any land to which the section is otherwise applicable, or to any telegraphic line (as defined by the Telegraph Act, 1878) of the Postmaster-General. 41 & 42 Vict. c. 76.

Stipulations preventing a purchaser, lessee, or underlessee from employing his own solicitor to be void.

104.—(1) Any stipulation made on the sale of any interest in land after the commencement of this Act to the effect that the conveyance to, or the registration of the title of, the purchaser shall be prepared or carried out at the expense of the purchaser by a solicitor appointed by or acting for the vendor and any stipulation which might restrict a purchaser in the selection of a solicitor to act on his behalf in relation to any interest in land agreed to be purchased, shall be void; and, if a sale is effected by demise or subdemise, then, for the purposes of this subsection, the instrument required for giving effect to the transaction shall be deemed to be a conveyance; but nothing in this section shall affect the right of a vendor to furnish a form of conveyance to a purchaser from which the draft can be prepared or to charge a reasonable fee therefor, or, where a perpetual rentcharge is to be reserved as the only consideration in money or money's worth, to stipulate that the draft conveyance is

to be prepared by his solicitor at the expense of the purchaser.

(2) Any covenant or stipulation contained in, or entered into with reference to any lease or underlease made before or after the commencement of this Act, whereby the right of preparing, at the expense of a purchaser, any assignment or other conveyance of the estate or interest of the lessee or underlessee in the demised premises or in any part thereof, or of otherwise carrying out, at the expense of the purchaser, any dealing with such estate or interest, is expressed to be reserved to or vested in the lessor or underlessor or his solicitor, or which in any way restricts the right of the purchaser to have such assignment or other conveyance carried out on his behalf by a solicitor appointed by him, shall be void:

Provided that, in lieu of any covenant or stipulation rendered void by this subsection, there shall be implied a covenant or stipulation that the lessee or underlessee shall register all assignments and devolutions including probates or letters of administration affecting the lease or underlease with the lessor or his solicitor within six months from the date of the conveyance or devolution and pay a fee of one guinea in respect of each registration, and the power of entry (if any) on breach of any covenant contained in the lease or underlease shall apply and extend to the breach of any covenant so to be implied.

(3) Save where a sale is effected by demise or subdemise, this section does not affect the law relating to the preparation of a lease or underlease or the draft thereof.

(4) In this section "lease" and "underlease" include any agreement therefor or other tenancy, and "lessee" and "underlessee" and "lessor" and "underlessor" have corresponding meanings.

Application of insurance money on completion of a sale.

105. Any money becoming payable after the date of any contract for sale of property under any policy of assurance in respect of any damage to or destruction of property included in such contract shall, on completion of such contract, but subject to any stipulation to the contrary, be held or receivable by the vendor on behalf of the purchaser and paid by the vendor to the purchaser on completion of the sale or so soon thereafter as the same shall be received by the vendor.

Amendment of 34 and 35 Vict. c. 31, s. 7.

106. Section seven of the Trade Union Act, 1871 (which provides that buildings for trade unions may be purchased or leased), shall have effect as if the words "not exceeding one acre" were deleted.

Construction of deeds and other instruments and presumption of survivorship.

107.—(1) In all deeds, contracts, wills, orders and other instruments executed, made or coming into operation after the commencement of this Act, unless a contrary intention appears—

(*a*) "Month" means calendar month.
(*b*) "Person" includes a corporation.
(*c*) The singular includes the plural and vice versâ.
(*d*) The masculine includes the feminine and vice versâ.

(2) The Lord Chancellor may from time to time prescribe and publish forms of contracts and conditions of sale of land, and the forms so prescribed and for the time being in force shall, subject to any stipulation, modification, or intention expressed to the contrary, apply to contracts by correspondence, and may, but only by express reference thereto, be made to apply to any other cases for which the forms are made available; and may also prescribe and publish forms to which a testator may refer in his will, but, unless so referred to, such forms shall not be deemed to be incorporated in a will.

(3) In all cases where, after the commencement of this Act, two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, such deaths shall (subject to any order of the court), for all purposes affecting the title to property, be presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder.

(4) Any deed, whether or not being an indenture, may be described (at the commencement thereof or otherwise) as a deed simply, or as a conveyance, deed of exchange, vesting deed, trust deed, settlement, mortgage, charge, transfer of mortgage, appointment, lease or otherwise according to the nature of the transaction intended to be effected.

Construction.

108.—(1) This Part of this Act and the Conveyancing Acts, 1881 to 1911, shall be construed together and may be cited together as the Conveyancing Acts, 1881 to 1922.

(2) Expressions not otherwise defined in this Act have the same meanings in this Part of this Act as in the Conveyancing Act, 1881, but without prejudice to the general definitions in Part XI. of this Act which shall, where applicable, apply to the Conveyancing Acts, 1881 to 1922.

PART IV.

AMENDMENTS OF THE TRUSTEE ACTS.

As to the number of trustees of a settlement or holding land on trust for sale, and notice of their appointment.

109.—(1) Where, at the commencement of this Act, there are more than four trustees of a settlement, or more than four trustees holding land on trust for sale, no new trustees shall (except where as a result of the appointment the number is reduced to four or less) be capable of being appointed until the number is reduced to less than four, and thereafter the number shall not be increased beyond four.

(2) In the case of settlements and dispositions on trust for sale of land—

(*a*) The number of trustees thereof shall not, where the settlement or disposition is made or comes into operation after the commencement of this Act, in any case exceed four; and where more than four persons are named as such trustees, the four first named (who are able and willing to act) shall alone be the trustees, and the other persons named shall not be trustees unless appointed on the occurrence of a vacancy;

(*b*) The number of the trustees shall not, after the settlement or disposition is made, be increased beyond four;

(*c*) Appointments of new trustees of a vesting instrument on the one hand and of the trust deed or settlement on the other hand, and of conveyances on trust for sale on the one hand and of the settlement of the proceeds of sale on the other hand, shall, subject to any order of the court, be effected by separate instruments, but in such manner as to secure that the same persons shall become the trustees of the vesting instrument or conveyance on trust for sale as become the trustees of the settlement relating thereto;

(*d*) Where new trustees of a vesting instrument (relating to the legal estate in settled land) are

appointed, a memorandum of the names and addresses of the persons who are for the time being the trustees thereof for the purposes of the Settled Land Acts shall be endorsed on or annexed thereto by or on behalf of the trustees of the settlement, and the vesting instrument shall, for that purpose, be produced by the person having the possession thereof to the trustees of the settlement when so required;

(*e*) Where new trustees of a conveyance on trust for sale (relating to a legal estate) are appointed, a memorandum of the persons who are for the time being the trustees for sale shall be endorsed on or annexed thereto by or on behalf of the trustees of the settlement of the proceeds of sale, and the conveyance shall, for that purpose, be produced by the person having the possession thereof to such trustees when so required.

(3) This section only applies to settlements and dispositions of land, and the restrictions imposed on the number of trustees shall not apply to land vested in trustees for charitable, ecclesiastical, or public purposes, or where the net proceeds are held for like purposes; nor to the trustees of a term of years absolute limited by a settlement on trusts for raising money, or of a like term created under section forty-four of the Conveyancing Act, 1881.

Provisions relating to appointments of new trustees.

110.—(1) Where a sole trustee (other than a trust corporation) is or has been originally appointed to act in a trust, or where, in the case of any trust, there are not more than three trustees (none of them being a trust corporation) either original or substituted and whether appointed by the High Court or otherwise, then and in any such case the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust, or if there is no such person, or no such person able and willing to act, then the trustee or trustees for the time being, may, by writing, appoint another person or other persons to be an additional trustee or additional trustees, but (save as provided by the instrument, if any, creating the trust, or by any statutory enactment to the contrary) it shall not be obligatory to appoint any additional trustee, nor shall the number of trustees be increased beyond four by virtue of any such appointment.

(2) Where a trustee has been removed under a power contained in the instrument creating the trust, then a new trustee or new trustees may be appointed in the place of the trustee who is removed, as if he were dead, or, in the case of a corporation, as if the corporation desired to be discharged from the trust, and the provisions of the Trustee Act, 1893, shall apply accordingly, but subject to the restrictions imposed by this Act on the number of trustees.

(3) Where a corporation being a trustee is or has been dissolved either after or before the commencement of this Act, then for the purposes of section ten of the Trustee Act, 1893, the corporation shall, from the date of the dissolution, become and be deemed to have been incapable of acting in the trusts or powers reposed in or conferred on the corporation.

(4) The power of appointment given by subsection (1) of section ten of the Trustee Act, 1893 (or by the enactment which it replaced), to the personal representatives of a last surviving or continuing trustee shall be, and shall be deemed to have always been, exercisable by the executors for the time being (whether original or by representation) of such surviving or continuing trustee who have proved the will of their testator or by the administrators for the time being of such trustee without the concurrence of any executor who has renounced or has not proved.

(5) But a sole or last surviving executor shall have, and be deemed always to have had, power, at any time before renouncing probate, to exercise the power of appointment given by section ten aforesaid (or by the enactment which it replaced), if willing to act for that purpose and without thereby accepting the office of executor.

(6) The provisions of subsections (3), (5), and (6) of section ten of the Trustee Act, 1893, shall apply to this section as if those provisions were re-enacted in this section.

(7) Where an infant is absolutely entitled under the will or on the intestacy of a person dying before or after the commencement of this Act (in this subsection called "the deceased") to a legacy, or to the residue of the estate of the deceased, or any share thereof, and such legacy, residue, or share is not, under the will (if any) of the deceased, devised or bequeathed to trustees for the

infant, the personal representative or representatives of the deceased may appoint a trust corporation or two or more individuals not exceeding four (whether or not including the personal representative or representatives or one or more of the personal representatives) to be the trustee or trustees of such legacy, residue, or share for the infant, and to be trustees of any land being or forming part of such residue or share for the purposes of the Settled Land Acts, and of section forty-two of the Conveyancing Act, 1881, and may execute or do any assurance or thing requisite for vesting such legacy, residue, or share in the trustee or trustees so appointed, and thereupon the personal representative or representatives, as such, shall be discharged from all further liability in respect of such legacy, residue, or share, and the same may be retained in its existing condition or state of investment or may be converted into money, and such money may be invested in any authorised investment. And where a personal representative has, before the commencement of this Act, retained such legacy, residue, or share, and invested the same in any investments authorised for the investment of trust money, he shall not (subject to any order of the court made before such commencement) be deemed to have incurred any liability on that account or by reason of not having paid or transferred the money or property into court.

(8) In subsection (1) of section twenty-five of the Trustee Act, 1893, the words " or, being a corporation, is in liquidation or has been dissolved " are hereby inserted after the word " bankrupt."

(9) For the words " at least two trustees to perform the trust " in paragraph (*c*) of subsection (2) of section ten of the Trustee Act, 1893, the words " either a trust corporation or at least two individuals to act as trustees to perform the trust " are hereby substituted.

(10) For the words " where there are more than two trustees if one of them " in subsection (1) of section eleven of the Trustee Act, 1893, the words " where after " the execution of the deed of discharge there will be " either a trust corporation or at least two individuals to " act as trustees to perform the trust, if any other " trustee " are hereby substituted.

(11) After the words " incapable of acting therein " in subsection (1) of section ten of the Trustee Act, 1893, the words " or is an infant " are hereby inserted ; and after

the words "being incapable" in the same subsection, the words "or an infant" are hereby inserted.

(12) Where the High Court appoints a corporation (other than the Public Trustee) to be a trustee either solely or jointly with another person, the court may authorise the corporation to charge such remuneration for its services as trustee as the court may think fit.

Evidence as to a vacancy in a trust.

111.—(1) A statement, contained in any instrument by which a new trustee is appointed for any purpose connected with land, to the effect that a trustee has remained out of the United Kingdom for more than twelve months or refuses or is unfit to act, or is incapable of acting, shall, in favour of a purchaser of a legal estate, be conclusive evidence of the matter stated.

(2) In favour of such purchaser any appointment of a new trustee depending on that statement, and any vesting declaration (express or implied) consequent thereon, shall be valid.

Vesting declarations.

112.—(1) For removing doubts, it is hereby declared that a vesting declaration made either after or before the commencement of this Act shall, notwithstanding that the estate interest or right to be vested is not expressly referred to, and provided that the other requirements of section twelve of the Trustee Act, 1893, or of the enactment which it replaced, are or were complied with, operate, and be deemed always to have operated (but without prejudice to any express provision to the contrary contained in the deed of appointment or discharge), to vest in the persons respectively referred to in subsections (1) and (2) of that section (as the case may require) such estates interests and rights as are or were capable of being and ought to be or to have been vested in those persons.

(2) Every deed executed after the commencement of this Act by which a new trustee is appointed to perform any trust, or by which a retiring trustee is discharged under the Trustee Act, 1893, shall, if and when sufficiently stamped for that purpose, and subject to any express provision to the contrary contained in the deed, operate, without any express vesting declaration, as if it had contained a declaration made pursuant to the provisions of subsections (1) or (2) of section twelve aforesaid (as the case may require) relating to such estates interests

and rights as, according to the circumstances of the case, were capable of being vested under that section.

(3) In subsection (3) of section twelve aforesaid and in the enactment which it replaced the expression "customary land" shall not be deemed ever to have included land, in regard to which the tenant had power to dispose of the legal estate by deed, and the expression "land conveyed by way of mortgage" shall not include, or be deemed ever to have included, land conveyed on trust for securing debentures or debenture stock.

(4) After the commencement of this Act, section twelve of the Trustee Act, 1893, and subsection (2) of this section shall not extend to land held under a lease which contains any covenant, condition, or agreement against assignment or disposing of the land without licence or consent unless, prior to the execution of the deed containing such declaration as mentioned in section twelve aforesaid, or the deed mentioned in subsection (2) of this section, the requisite licence or consent has been obtained or by virtue of any statute or rule of law, the vesting declaration would not operate as a breach of covenant or give rise to a forfeiture. In this subsection "lease" includes an underlease and an agreement for a lease or underlease.

Vesting orders.

113.—(1) In clause (i) of section twenty-six of the Trustee Act, 1893, and in clause (i) of subsection (1) of section thirty-five of the same Act, after the words "Where the High Court appoints or has appointed a new trustee" the following words are hereby inserted in both places, namely, "or where a new trustee has been appointed, out of court, under any statutory or express power"; and the words "by the court" in the proviso (*a*) at the end of subsection (1) of section thirty-five aforesaid are hereby repealed.

(2) In clause (ii) (*c*) of section twenty-six aforesaid and in clause (ii) (*c*) of subsection (1) of section thirty-five aforesaid after the words "cannot be found," the following words are hereby inserted in both places, namely, "or being a corporation has been dissolved":

Provided that nothing in this subsection shall prejudicially affect any order made before the commencement of this Act.

(3) Where, by reason of the dissolution of a corporation either before or after the commencement of this Act, a legal estate in any property has determined, the High Court may by order create a corresponding estate and vest the same in the person who would have been entitled to the estate which determined had it remained a subsisting estate.

Vesting orders in relation to infant's beneficial interests.

114. Where an infant is beneficially entitled to any property the High Court may, with a view to the application of the capital or income thereof for the maintenance, education, or benefit of the infant, make an order appointing a person to convey such property, or, in the case of stock, or a chose in action, vesting in any person the right to transfer or call for a transfer of such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action upon such terms as the High Court shall think fit.

Alimentary trusts.

115.—(1) Where any income (including an annuity or other periodical income payment) is directed to be held on alimentary trusts for the benefit of any person (in this section called "the principal beneficiary") for the period of his life or for any less period, then, during that period (in this section called the "trust period"), the said income shall, without prejudice to any prior interest, be held on the following trusts, namely:—

(i) Upon trust for the principal beneficiary during the trust period or until he (whether before or after the termination of any prior interest) does or attempts to do or suffers any act or thing or until any event happens (other than an advance under any statutory or express power) whereby if the said income were payable during the trust period to the principal beneficiary absolutely during that period he would be deprived of the right to receive the same or any part thereof, in any of which cases, as well as on the termination of the trust period, which first happens, this trust of the said income shall fail or determine;

(ii) If the trust aforesaid fails or determines during the subsistence of the trust period, then, during the residue of that period, the said income shall be held upon trust for the application thereof for the maintenance, support, or otherwise for the benefit of all or any one or more exclusively of

the other or others of the principal beneficiary and his or her wife or husband, if any, and his or her children or more remote issue, if any, as the trustees in their absolute discretion, without being liable to account for the exercise of such discretion, think fit, or if there shall be no wife, husband, or issue of the principal beneficiary in existence, then, for the maintenance, support, or otherwise for the benefit of all or any one or more exclusively of the other or others of the principal beneficiary and the persons who would, if he were actually dead, be entitled to the trust property or the income thereof or of the annuity fund, if any, or arrears of the annuity, as the case may be, as the trustees in their absolute discretion, without being liable to account as aforesaid, think fit.

(2) This section only applies to trusts coming into operation after the commencement of this Act, and shall have effect subject to any variation of the implied trusts aforesaid contained in the instrument creating the trust.

(3) Nothing in this section shall operate to validate any trust which, if contained in the instrument creating the trust, would be liable to be set aside.

Amendment of section 47 of the Trustee Act, 1893.

116.—(1) Section forty-seven of the Trustee Act, 1893, shall have effect, and shall be deemed always to have had effect, as if the words "and trustees for the purposes of section forty-two of the Conveyancing Act, 1881," had been inserted therein after the words "Settled Land Acts, 1882 to 1890."

(2) Section forty-seven aforesaid shall apply to vesting instruments as well as to settlements.

Protection to personal representatives and trustees in respect of rents, covenants, &c., after conveyance. 22 & 23 Vict c. 35.

117.—(1) In sections twenty-seven and twenty-eight of the Law of Property Amendment Act, 1859, after the words "to a purchaser thereof" the words "or to a legatee, devisee or other person entitled to call for a conveyance thereof," and after the words "to distribute the residuary" the words "real and" are hereby respectively inserted in each of those sections.

(2) In sections twenty-seven and twenty-eight aforesaid the expressions "assignment" and "conveyance" include an assent by a personal representative operating to vest the property in any person, and in section twenty-seven aforesaid "lease" includes an underlease.

(3) Sections twenty-seven and twenty-eight aforesaid (as so amended) shall apply to conveyances executed by trustees after the commencement of this Act, and to the distribution of the trust property in like manner as those sections apply to conveyances by personal representatives and to the distribution of the property of the deceased, but without prejudice to the right of the lessor or grantor and the persons respectively deriving title under him to follow the trust property into the hands of the persons amongst whom the same may have been distributed.

Protection to trustees by means of advertisements.

118.—(1) With a view to the conveyance to or distribution among the persons entitled to any real or personal property, the trustees of a settlement or of a disposition on trust for sale, may give notice by advertisements in the Gazette, and in a daily London newspaper and (but only in the case of land not situated in the county of London) in a daily or weekly newspaper circulating in the district in which the land is situated, and such other like notices (including notices elsewhere than in England) as would, in any special case, have been requisite in order to comply with section twenty-nine of the Law of Property Amendment Act, 1859, in the case of an intended distribution of assets by a personal representative, of their intention to make such conveyance or distribution as aforesaid, and requiring any person interested to send particulars of his claim in respect of the property or any part thereof, to which the notice relates, to the trustees, within the time (not being less than two months) fixed in the notice or, where more than one notice is given, in the last of the notices.

(2) At the expiration of the time fixed by the notice the trustees may convey or distribute the property or any part thereof, to which the notice related, to or among the persons entitled thereto, having regard only to the claims (formal or otherwise) of which the trustees then had notice and (if the requisite notice has been given) shall not, as respects the property so conveyed or distributed, be liable to any person of whose claim the trustees shall not have had notice at the time of conveyance or distribution; but nothing in this section shall prejudice the right of any person to follow the property, or any property representing the same, into the hands of any person (other than a purchaser) who may have received the same.

Powers of trustees supplementary to powers of investment.

119.—(1) Trustees lending money on the security of any property on which they can lawfully lend may contract that such money shall not be called in during any period not exceeding seven years from the time when the loan was made, provided interest be paid within a specified time not exceeding thirty days after every half-yearly or other day on which it becomes due, and provided there shall be no breach of any covenant by the borrower contained in the mortgage security for the maintenance and protection of the property.

(2) On a sale of land for an estate in fee simple or for a term having at least five hundred years to run by trustees or by a tenant for life of full age or statutory owner, the trustees, or the tenant for life or statutory owner on behalf of the trustees of the settlement, may contract that the payment of any part, not exceeding two-thirds, of the purchase money shall be secured by a charge by way of legal mortgage or a mortgage by demise for a term of not less than five hundred years, of the land sold, with or without the security of any other property such charge or mortgage to contain covenants by the mortgagor to pay the principal money secured and the interest thereon, and also to keep all buildings (if any) comprised therein insured against loss or damage by fire to the full value thereof; and the trustees shall not be bound to obtain any report as to the value of the land or other property to be comprised in such charge or mortgage, or any advice as to the making of the loan, and shall not be liable for any loss which may be incurred by reason only of the security being insufficient at the date of the charge or mortgage; and the trustees of the settlement shall be bound to give effect to such contract made by the tenant for life of full age or statutory owner.

(3) Where any securities of a company are subject to a trust, and the trustees can lawfully hold or retain the same, they may concur in any scheme or arrangement for the reconstruction of such company, or for the sale of all or any part of the property and undertaking of such company to, or for its amalgamation with, any other company, or for the release modification or variation of any rights, privileges, or liabilities attached to such securities or any of them, in like manner as if they were entitled to such securities beneficially, with power to

accept any securities of any denomination or description of the reconstructed or purchasing or new company in lieu of or in exchange for all or any of the first-mentioned securities; and the trustees shall not be responsible for any loss occasioned by any act or thing so done in good faith, and may hold and retain any securities so accepted as aforesaid in like manner as they could have done if the same had been authorised by the instrument (if any) creating the trust or by law for the investment of money subject to the trust.

(4) If any preferential right to subscribe for any securities in any company shall be offered to trustees in respect of any previous holding in such company, they may, as to all or any of such securities, either exercise such right and apply capital money subject to the trust in payment of the consideration, or renounce such right, or assign for the best consideration that can be reasonably obtained the benefit of such right or the title thereto to any person, including any beneficiary under the trust, without being responsible for any loss occasioned by any act or thing so done by them in good faith: Provided that the consideration for any such assignment shall be held as capital money of the trust.

(5) The powers conferred by this section shall be exercisable subject to the consent of any person whose consent to a change of investment is required by law or by the instrument (if any) creating the trust.

(6) Where the loan referred to in subsection (1) of this section or the sale referred to in subsection (2) of this section is made under the order of the High Court, the powers conferred by those subsections respectively shall apply only if and as far as the court shall by order direct.

(7) This section applies only if and as far as a contrary intention is not expressed in the instrument (if any) creating the trust, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(8) This section applies to trusts constituted or created either before or after the commencement of this Act.

Various powers of trustees.

120.—(1) Trustees may, pending the negotiation and preparation of any security, or during any other time while an investment is being sought for, pay any trust money

into a bank to a deposit or other account, and all interest (if any) payable in respect thereof shall be applied as income.

(2) Trustees may deposit any documents held by them relating to the trust, or to the trust property, with any banker or banking company or any other company whose business it is to undertake the safe custody of documents, and any sum payable in respect of such deposit shall be paid out of the income of the trust property.

(3) Trustees may apply capital money subject to a trust in payment of the calls on any shares subject to the same trust.

(4) Where trust property consists of or includes any share or interest in property or the proceeds of the sale of property not vested in the trustees, or any other thing in action, the trustees on the same falling into possession, or becoming payable or transferable—

(*a*) may agree or ascertain the amount or value thereof or any part thereof in such manner as they shall think fit;

(*b*) may accept in or towards satisfaction thereof, at the market or current value, or upon any valuation or estimate of value which they shall think fit, any securities authorised by the instrument (if any) creating the trust or by law for the investment of money subject to the trust;

(*c*) may allow any deductions for duties, costs, charges and expenses which they may think proper or reasonable; and

(*d*) may execute any release in respect of the premises, so as effectually to discharge all accountable parties from all liability in respect of any matters coming within the scope of such release, without being responsible for any loss occasioned by any act or thing so done by them in good faith.

(5) The trustees shall not be under any obligation to place any distringas notice or apply for any stop or other like order upon any securities or other property out of or on which such share or interest or other thing in action is derived, payable or charged, or to take any proceedings on account of any act, default, or neglect on the part of the persons in whom such securities or other property or any of them or any part thereof are for the time being or had at any time been vested, unless and until required

in writing so to do by some person or the guardian of some person beneficially interested under the trust, and unless also due provision shall be made to their satisfaction for payment of the costs of any proceedings required to be taken, but may if they think fit refer the said matters to some such person or guardian as aforesaid, and the trustees shall not be chargeable with breach of trust by reason only of any omission in any of the matters aforesaid, except when required and upon due provision made as aforesaid, but nothing in this subsection shall relieve the trustees of the obligation to get in and obtain payment or transfer of such share or interest or other thing in action on the same falling into possession.

(6) Trustees may, for the purpose of giving effect to the trust or any of the provisions of the instrument (if any) creating the trust or of any statute, from time to time (by duly qualified agents) ascertain and fix the value of any trust property in such manner as they think proper, and any valuation so made in good faith shall be binding upon all persons interested under the trust.

(7) Trustees may, in their absolute discretion, from time to time (but not more than once in every three years unless the nature of the trust, or any special dealings with the trust property, make it reasonable) cause the accounts of the trust property to be audited by an independent accountant, and shall, for that purpose, produce such vouchers, and give such information to him as he shall require; and the costs of such audit (including the fee of the auditor) shall be paid out of the capital or income of the trust property, or partly in one way and partly in the other, as the trustees shall, in their absolute discretion, think fit, but, in default of any direction (in any special case) by the trustees to the contrary, costs attributable to capital shall be borne by capital and those attributable to income by income.

(8) A trustee having power to invest in real securities may accept the security in the form of a charge by way of legal mortgage, and may, in exercise of the statutory power, convert an existing security into a charge by way of legal mortgage.

(9) A trust or power to sell or dispose of land includes a trust or power to sell or dispose of part thereof, whether the division is horizontal, vertical, or otherwise.

(10) This section applies only if and as far as a contrary intention is not expressed in the instrument

(if any) creating the trust, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(11) This section applies to trusts constituted or created either before or after the commencement of this Act.

Power of advancement.

121.—(1) Where under a trust a person is entitled to the capital of the trust property or of any share thereof, whether absolutely or contingently on his attaining any specified age or on the occurrence of any other event, or subject to a gift over on his death under any specified age or on the occurrence of any other event, and whether in possession or in remainder or reversion, the trustees may from time to time pay or apply any capital money subject to the trust, not exceeding altogether in amount one-half of the value of such property or share, for the advancement or benefit of such person in such manner as the trustees shall in their absolute discretion think fit:

Provided that—

(*a*) If such person is or becomes absolutely and indefeasibly entitled to a share in the trust property the money so paid or applied shall be brought into account as part of such share; and

(*b*) No such payment or application shall be made so as to prejudice any person entitled to any prior life or other interest, whether vested or contingent, in the money paid or applied without the consent in writing of such person.

(2) This section applies only where the trust property consists of money or securities or property held upon trust for sale calling in and conversion, and such money or securities, or the proceeds of such sale calling in and conversion are not by statute or in equity considered as land, or applicable as capital money for the purposes of the Settled Land Acts.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument (if any) creating the trust, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(4) This section applies only to trusts constituted or created after the commencement of this Act.

Power to raise money by sale, mortgage, &c.

122.—(1) Where trustees are authorised by the instrument (if any) creating the trust or by law to pay or apply capital money subject to the trust for any purpose or in any manner, they shall have and shall be deemed always to have had power to raise the money required by sale, conversion, calling in, or mortgage of all or any part of the trust property.

(2) This section does not apply to trustees of a settlement within the meaning of the Settled Land Acts.

Power for the High Court to authorise dealings with trust property.

123.—(1) Where in the management or administration of any property vested in trustees, any sale, lease, mortgage, surrender, release, or other disposition, or any purchase, investment, acquisition, expenditure, or other transaction, shall in the opinion of the High Court be expedient, but the same cannot be effected by reason of the absence of any power for that purpose vested in the trustees by the trust instrument (if any), or by law, the court may by order confer upon the trustees, either generally or in any particular instance, the necessary power for the purpose, on such terms, and subject to such provisions and conditions (if any), as the court may think fit and may direct in what manner any money authorised to be expended, and the costs of any transaction, are to be paid or borne as between capital and income.

(2) The court may, from time to time, rescind or vary any order made under this section, or may make any new or further order.

(3) An application to the court under this section may be made by the trustees, or by any of them, or by any person beneficially interested under the trust.

(4) This section does not apply to trustees of a settlement within the meaning of the Settled Land Acts.

(5) Where any chattels belong to persons in undivided shares, the persons interested in a moiety or upwards may apply to the High Court for an order for division of the chattels or any of them, according to a valuation or otherwise, and the Court may make such order and give any consequential directions as it thinks fit.

Provision for protection of purchasers and mortgagees.

124. No purchaser or mortgagee, paying or advancing money on a sale or mortgage purporting to be made under any trust or power vested in trustees, shall be concerned

to see that such money is wanted, or that no more than is wanted is raised, or otherwise as to the application thereof.

Power to employ agents, and to concur with others.

125.—(1) Trustees, executors, or administrators may, instead of acting personally, employ and pay an agent, whether being a solicitor, banker, stockbroker, or any other person to transact any business or do any act required to be transacted or done in the execution of the trust, or the administration of the testator's or intestate's estate, including the receipt and payment of money, and shall be entitled to be allowed and paid all charges and expenses so incurred, and shall not be responsible for the default of any such agent if employed in good faith.

(2) Trustees, executors, or administrators may appoint any person to act as their agent or attorney for the purpose of selling, converting, collecting, getting in, and executing and perfecting assurances of, or managing, or cultivating, or otherwise administering any property, real or personal, moveable or immoveable, subject to the trust or forming part of the testator's or intestate's estate, in any place outside the United Kingdom, or executing or exercising any discretion or trust or power vested in them in relation to any such property, with such ancillary powers, and with and subject to such provisions and restrictions as they may think fit, including a power to appoint substitutes, and shall not, by reason only of their having made such appointment, be responsible for any loss arising thereby.

(3) Where an undivided share in the proceeds of sale of land directed to be sold, or in any other property, is subject to a trust, or forms part of the estate of a testator or intestate, the trustees or executors or administrators may (without prejudice to the trust for sale affecting the entirety of the land and the powers of the trustees for sale in reference thereto) execute or exercise any trust or power vested in them in relation to such share, in conjunction with the persons entitled to or having power in that behalf over the other share or shares, and notwithstanding that any such trustee, executor or administrator may be entitled to or interested in any such other share, either in his own right or in a fiduciary capacity.

(4) This section applies only if and as far as a contrary intention is not expressed in the instrument (if

any) creating the trust and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(5) This section applies to trusts executorships and administratorships constituted or created either before or after the commencement of this Act.

Application of insurance money where policy kept up under any trust, power, or obligation.

126.—(1) Money receivable by trustees or any beneficiary under a policy of assurance against the loss or damage of any property subject to a trust or to a settlement within the meaning of the Settled Land Acts, whether by fire or otherwise, shall where the policy has been kept up under any trust in that behalf, or under any power statutory or otherwise, or in performance of any covenant, or of any obligation statutory or otherwise, or by a tenant for life impeachable for waste, be capital money for the purposes of the trust or settlement, as the case may be.

(2) If such money is receivable by any person, other than the trustees of the trust or settlement, such person shall recover and receive the same, and pay the net residue of such money, after discharging any costs of recovering and receiving the same, to the trustees of the trust or settlement, or, if there shall be no trustees capable of giving a discharge for the same, into the High Court.

(3)—(*a*) If such money was receivable in respect of settled land within the meaning of the Settled Land Acts, or any building or works thereon, the same shall be deemed to be capital money arising under those Acts from the settled land, and shall be invested or applied by the trustees or (if in court) under the direction of the Court accordingly.

(*b*) If such money was receivable in respect of personal chattels settled as mentioned in section thirty-seven of the Settled Land Act, 1882 (as amended), the same shall be deemed to be capital money arising under the Settled Land Acts, and shall be applicable by the trustees or (if in court) under the direction of the Court in like manner as provided by subsection (2) of section thirty-seven aforesaid with respect to money arising by a sale of such chattels under that section.

(*c*) If such money was receivable in respect of property held upon trust for sale, the same shall be held upon the trusts and subject to the powers and provisions applicable to money arising by a sale under such trust.

(*d*) In any other case such money shall be held upon trusts corresponding as nearly as may be with the trusts affecting the property in respect of which it was payable.

(*e*) Such money, or any part thereof, may also be applied by the trustees, or (if in court) under the direction of the court, in rebuilding, reinstating, replacing, or repairing the property lost or damaged, but any such application by the trustees shall be subject to the consent of any person whose consent is required by the instrument (if any) creating the trust to the investment of money subject to the trust, and, in the case of money which is deemed to be capital money arising under the Settled Land Acts, subject to the provisions of those Acts with respect to the application of capital money by the trustees of the settlement.

(4) Nothing contained in this section shall prejudice or affect the right of any person to require such money or any part thereof to be applied in rebuilding, reinstating, or repairing the property lost or damaged, or the rights of any mortgagee, lessor, or lessee, whether under any statute or otherwise.

(5) This section applies only if and as far as a contrary intention is not expressed in the instrument (if any) creating the trust or settlement, and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(6) This section applies to a trust or settlement and to policies created or effected either before or after the commencement of this Act, but only to money received after the commencement of this Act.

Construction.

127. This Part of this Act shall be construed with the Trustee Act, 1893, and the Trustee Act, 1893, Amendment Act, 1894, and may be cited with those Acts as the Trustee Acts, 1893 to 1922, but without prejudice to the general definitions contained in Part XI. of this Act, which, where applicable, shall apply to those Acts.

PART V.

ABOLITION OF COPYHOLD AND CUSTOMARY TENURE.

Abolition of Copyholds.

Enfranchisement of copyholds.

128.—(1) As from the commencement of this Act, every parcel of copyhold land shall by virtue of this Act

be enfranchised and cease to be of copyhold or customary tenure, and land so enfranchised is in this Act referred to as enfranchised land.

(2) The enfranchisement by virtue of this Part of this Act shall have the effect stated in the Twelfth Schedule to this Act:

Provided that (save as otherwise expressly provided) nothing in this Part of this Act shall affect the following manorial incidents; that is to say—

(*a*) quit rents and chief rents and other similar rents or payments;

(*b*) fines, reliefs, heriots, and dues (including fees payable to stewards);

(*c*) forfeitures, other than forfeitures for the conveyance or attempted conveyance of an estate of freehold in the land, and for alienation without licence whether by way of sale, lease, mortgage or otherwise;

(*d*) rights as to timber;

and accordingly (subject to the provisions of this Act) the enfranchised land and the persons for the time being entitled thereto shall, until the manorial incidents so saved are extinguished, remain subject thereto in like manner as if the land had not been enfranchised; but so that in lieu of any chattel liable to be seized as a heriot a sum equal to the value thereof shall be payable.

(3) Modes of assurance authorised by special custom are hereby abolished; and all land (including land held in free tenure but subject to custom) shall be dealt with as land held in free and common socage discharged from custom.

Endorsement of assurances of enfranchised land by stewards.

129.—(1) So long as any of the manorial incidents saved by the last preceding section remain unextinguished as respects any enfranchised land, an assurance of that land, or of any interest therein, shall, subject as hereinafter provided, on the expiration of six months from the date of its execution, or of such extended period as the court may either before or after the expiration of those six months for any special reasons allow, become void so far as regards the grant or conveyance of a legal estate, unless the assurance has been produced to the steward of the manor.

(2) On production to him within the time allowed for the purpose of such an assurance and on payment of

any fines, reliefs or heriots payable in respect of the transaction, the arrears (if any) in respect of any former transaction affecting the same land, and all quit or other rents, and of the prescribed fee, the steward shall forthwith return the assurance and endorse the same with a certificate in the prescribed form and manner denoting that the assurance has been so produced and if he fails to do so or refuses to accept a proper tender of the fines, reliefs, heriots, rents and fee, he shall be liable to indemnify any person who suffers or incurs any damage or expense in consequence of such failure or refusal: Provided that, if any dispute arises as to the amount payable in respect of fines, reliefs, heriots, rents or fees, the amount demanded shall be paid or tendered, without prejudice to the right to recover any part not properly payable.

(3) Such a certificate as aforesaid duly endorsed on an instrument shall be conclusive evidence that the instrument was produced to the steward within the time allowed, and a certificate on an instrument purporting to be such a certificate as aforesaid shall be taken to have been duly endorsed thereon by the steward of the manor, unless the contrary is proved.

(4) If at any time it is proved to the satisfaction of the Lord Chancellor that there is and has been for at least three months a vacancy in the office of steward of any manor and that by reason of such vacancy any delay has been caused in the endorsement of an assurance, or that the steward is unwilling or unable to perform the duties imposed on him under the provisions of this section, the Lord Chancellor may, after giving at least one month's notice to the steward, if any, and to the lord (who shall have power to remove the steward and appoint another person in his place) and in default of such appointment, make an order transferring those duties to the Land Registrar, and on the making of such an order those duties shall, as respects that manor, be transferred to the Land Registrar, and this section shall apply accordingly with this modification, that the Land Registrar shall endorse the assurance with the prescribed certificate after ascertaining that all fines, reliefs or heriots payable in respect of the transaction and rents have been paid.

If after such order has been made the steward (if any) acts or attempts to act under this section he shall

be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds.

A certificate by the Land Registrar endorsed on an instrument that the instrument has been produced to him shall be conclusive evidence that the duties of the steward of the manor have been so transferred as aforesaid.

(5) The foregoing provisions of this section shall not apply where the land has been registered under the Land Transfer Acts, 1875 and 1897, and the assurance is one which is capable of being registered under those Acts:

38 & 39 Vict. c. 87.
60 & 61 Vict. c. 65.

Provided that the Land Registrar shall not register any transfer of any such land, or any other transaction in relation to the land, or enter notice of any such other transaction until he has ascertained that all fines, reliefs, heriots and fees payable in respect of the transaction and rents have been paid, or that no fines, reliefs, heriots, rents or fees are payable.

(6) For the purpose of enabling the Land Registrar in any case under the last preceding subsection to ascertain whether fines, reliefs, heriots, rents and fees, have been paid, the steward (if any) shall, on the request of any person interested and on payment of the prescribed fee, give to that person a certificate that the fines, reliefs, heriots, and fees payable in respect of any transaction and rents, including arrears, if any, as aforesaid, have been paid if that be the case, or that no fines, reliefs, heriots, rents or fees are payable, if that be the case, and if in either of those cases the steward (if any) neglects to comply with such request, or if he refuses to accept a proper tender of the fines, reliefs, heriots, rents and fees, he shall be liable to indemnify any person who suffers any loss or expenses in consequence of such neglect or refusal: Provided that, if any dispute arises as to the amount payable in respect of fines, reliefs, heriots, rents or fees, the amount demanded shall be paid or tendered, without prejudice to the right to recover any part not properly payable.

(7) Until the lord appoints a steward he shall, for the purposes of this section, be subject to the same obligations as if he were the steward.

(8) Where the duties of the steward under this section have been transferred to the Land Registrar as aforesaid, the lord shall cause any prescribed stamp used for the purpose of endorsing certificates on assurances under this section to be transferred to the Land Registrar together

with the court rolls and the Land Registrar shall hold the court rolls as agent of the lord for safe custody.

(9) For the purposes of this section, the expression "assurance" does not include a will or a grant or assignment of a lease or tenancy for a year or less or from year to year, but does include an assent by a personal representative, and an order of a court of competent jurisdiction or other competent authority and a vesting declaration, operating to vest land or any interest therein in any person, and where an assurance by a personal representative is produced for endorsement the probate of the will, or the letters of administration, shall also be produced by the personal representative at the cost of the person requiring the production.

(10) Where in any manor the practice has been adopted of leaving the customary estate in fee simple outstanding in a trustee or terre tenant on trusts for creating perpetual rentcharges or other derivative interests which under this Act are capable of subsisting as legal estates, then, if the fines, reliefs, heriots, and rents payable do not together amount to more than five shillings, an attested copy of the assurance (with any plans thereto), which (independently of this subsection) ought to have been produced to the steward, may, instead of the original being produced, be sent, on or before the expiration of six months from the date of the execution of the assurance, by registered post or delivered with a sum of ten shillings (in satisfaction of the steward's fees and the customary payments aforesaid) to the steward, who shall thereupon send by registered post or deliver a receipt for the said attested copy and money; and such receipt, signed by or on behalf of the steward, shall be conclusive evidence that the requirements of this section have been complied with in regard to the transaction effected by the assurance; and if the steward fails or refuses to send or deliver the aforesaid receipt he shall be liable to indemnify any person who suffers or incurs any damage or expense in consequence of such failure or refusal.

(11) This section does not apply to dealings with interests not affected by manorial incidents.

Provisions as to fines and heriots.

130.—(1) Until the manorial incidents saved by this Part of this Act have been extinguished the same fines shall (subject as hereinafter provided) be payable on any

transaction (formerly capable of being effected by a customary assurance), which would have been payable if the land had remained copyhold and the transaction had been effected by a customary assurance, and the same payments in lieu of heriots shall be payable on the same occasions on which a heriot would have accrued if the land had remained copyhold.

(2) Where any enfranchised land is alienated whether by way of sale, lease, mortgage, or otherwise, and such alienation without the licence of the lord would have given rise to a right to forfeit if this Part of this Act had not been passed, then, so long as the manorial incidents saved by this Part of this Act remain unextinguished, the like fine shall be payable in respect of the alienation as would have been payable for a licence authorising the alienation:

Provided that, where the fine payable for such a licence is not fixed by the custom of the manor, the fine payable shall be such reasonable fine as in default of agreement between the lord and tenant may be fixed on the application either of the lord or the tenant by the Minister.

(3) Subject to the provisions of subsection (2) of this section, no fine shall be payable in respect of a mortgage of enfranchised land unless and until the mortgagee in exercise of any power of sale express or implied conferred by the mortgage conveys the land to a purchaser, or transfers the mortgage without the concurrence of the mortgagor, or the right of redemption is extinguished by foreclosure or otherwise.

(4) Nothing in this section shall affect the right of the lord to a double fine on a conveyance by a mortgagee, who had not been admitted before the commencement of this Act, to a purchaser, or on a transfer of his mortgage without the concurrence of the mortgagor, or on the extinguishment of the right of redemption under any such mortgage.

(5) Fines and heriots (whether payable before or after the commencement of this Act) shall be recoverable as simple contract debts and not otherwise, and shall not be recoverable (in the case of fines and heriots becoming payable after such commencement) after the expiration of six years from the date when they become payable,

or (in the case of fines and heriots payable at the commencement of this Act) after the expiration of six years from such commencement.

Provisions as to fees.

131.—(1) The steward of a manor shall be entitled to such fees only in respect of transactions effected after the commencement of this Act as may be prescribed by the Minister:

Provided that, where the steward is appointed before the passing of this Act, the following provisions shall (save as expressly provided in this Part of this Act) have effect, namely:—

(i) Where the transaction is one in respect of which a customary fee would have been payable if the land had not been enfranchised the prescribed fee shall be the customary fee; and

(ii) Where the transaction is a mortgage the prescribed fee shall be such customary fee as would have been payable on the conditional surrender of the land if it had not been enfranchised; and

(iii) Where the customary fee is regulated by the length of the customary assurance or other entry on the court rolls then the prescribed fee shall likewise be regulated by the length of the instrument which, after the commencement of this Act, is used to carry out the transaction or if more than one instrument is so used then by the length of the instrument containing the assurance of the land.

(2) The Land Registrar shall, in respect of the performance of any duty transferred to him from the steward under this Part of this Act, be entitled to such fees as a steward appointed after the commencement of this Act would have been entitled to.

(3) This section shall apply to fees payable in respect of land liable to any heriot, quit rent, free rent, or other manorial incident whatsoever, as well as to fees payable in respect of enfranchised land.

Provisions as to forfeitures.

132.—(1) Any right of forfeiture saved by this Part of this Act shall, until such right is extinguished be enforceable by action to recover possession, as if the freehold had remained vested in the lord, and not otherwise, and as if all preliminary proceedings required by

custom had been taken; but shall not be so enforceable unless and until the lord serves on the tenant a notice specifying the particular act or neglect complained of, and if the act or neglect is capable of remedy requiring the tenant to remedy the same, and in any case requiring the tenant to make compensation in money for the act or neglect, and the tenant fails within a reasonable time thereafter to remedy the act or neglect, if it is capable of remedy, and to make reasonable compensation in money to the satisfaction of the lord for the act or neglect.

(2) Where the lord is proceeding to enforce a right of forfeiture, the tenant or other person interested may, in the lord's action, or in any action brought by himself, apply to the court for relief, and the court may grant or refuse relief as the court having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances thinks fit, and in case of relief may grant it on such terms (if any) as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like act or neglect in the future, as the court in the circumstances of each case may think fit.

(3) For the purposes of this section, the expression "tenant" includes any person in possession of the land or of the rents and profits thereof; and a right of forfeiture shall not, in any subsequent proceedings, be deemed to have been extinguished if the notice by the lord was served when the right was subsisting.

(4) The provisions of section sixty-seven of the Conveyancing Act, 1881, shall apply to any notice required or authorised to be served under this section.

Application to copyholds for life or years without right of perpetual renewal.

133.—(1) The foregoing provisions of this Part of this Act shall not apply to any copyhold land held under a grant by the lord as copyhold for a life or lives or for years where the tenant has not at the commencement of this Act, a right of perpetual renewal, but in such case the copyhold interest of the tenant shall (save as hereinafter provided) as from the commencement of this Act be converted into a leasehold interest for the life or lives, or for years determinable on the dropping of a life, or for a corresponding legal term of years absolute, as the case may be, and the estate of the lord shall be the fee simple or freehold reversion immediately

expectant on the interest so created, and the benefit of the rents, services, and conditions subject to which the copyhold interest was held shall be incident and annexed to the reversion, and the burden of the covenants or agreements expressed or implied on the part of the lord and the tenant respectively shall run with the reversion and the land respectively; and the lord shall be entitled to a right of re-entry exerciseable after thirty days default in payment of rent or on non-performance or breach of any services, covenants, agreements, or conditions, which ought to be paid, observed, or performed by the tenant, but subject (where applicable) to the provisions of section fourteen of the Conveyancing Act, 1881, as amended by any subsequent enactment.

(2) Every interest by this section vested in the tenant shall (subject to the provisions of Part I. of this Act) be subject to the same trusts, powers, executory limitations over, rights and equities, and to the same covenants and provisions relating to user and enjoyment, and to all the same obligations of every kind, as the copyhold interest affected by this section would have been subject to if it had not been so affected.

(3) Every such interest which, but for this subsection, would have taken effect as an interest for life or lives or determinable on the cesser of a life shall, in accordance with Part VII. of this Act, take effect for a term of ninety years determinable by notice as therein mentioned.

Application to Crown and Duchy lands.

134. This Part of this Act shall extend to manors or lands vested in His Majesty in right of the Crown, or of the Duchy of Lancaster, or in right of the Duchy of Cornwall or the possessions thereof, or in the Duke of Cornwall for the time being, for any estate, whether in possession, reversion, or remainder and as respects—

(*a*) land belonging to His Majesty in right of the Crown, the Commissioners of Woods;

(*b*) land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(*c*) land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall or the possessor

for the time being of the Duchy of Cornwall appoints;

shall, for the purposes of this Act, be entitled to act in the name and on behalf of the lord or tenant or estate owner as the case may require.

Application to perpetually renewable copyholds.

135. Where copyhold land is held for life or lives or for years, whether or not determinable with life, and the tenant has at the commencement of this Act, a perpetual right of renewal, subject or not to the fulfilment of any conditions, then, this Part of this Act shall apply as if the person who at the commencement of this Act was the admitted tenant or had the best right to be admitted in respect of such renewable interest, had been admitted, or (as the case may be) had the best right to be admitted, in respect of the inheritance; save that if the last admitted tenant died before the commencement of this Act his personal representatives shall be deemed to have had the best right to be admitted (but without prejudice to the beneficial rights of his devisee, legatee, statutory next of kin, or other persons claiming under his will or on his intestacy) and the land so enfranchised shall vest in accordance with the provisions of the Twelfth Schedule to this Act.

Saving of Grand and Petty Sergeanty services.

136. Nothing in this Act shall affect the services incident to Grand and Petty Sergeanty (which shall not be deemed to be manorial incidents), but the land affected shall be subject to the provisions of this Act in like manner as if, before the commencement of this Act, it had been held in free and common socage or had been copyhold land as the case may require.

Provisions for the protection of Royal Parks and Gardens.

137. As regards the manors of Hampton Court, in the county of Middlesex, and Richmond, in the county of Surrey, and every or any other manor vested, at the commencement of this Act, in His Majesty in right of the Crown or of the Duchy of Lancaster, and lands adjoining or separated only by a road or boundary wall from any royal park or garden the following provisions for the protection of the amenities of royal parks, gardens, and palaces shall have effect:—

(1) The Commissioners of Works (in this section called "the Commissioners") and all persons authorised by them in that behalf shall have a right of entry upon all enfranchised land adjoining any such boundary wall or the site thereof at

all times in the daytime for the purpose of inspecting the state and condition of the boundary wall and repairing, rebuilding, or reinstating the same.

(2) The Commissioners shall be entitled by deed under their corporate seal (to be enrolled on the court rolls of the manor within six months after execution and to be registered, in respect of restrictions, as a land charge under the Land Charges Registration and Searches Act, 1888, as amended) to impose upon any enfranchised land such conditions, stipulations, and restrictions relating to— 51 & 52 Vict. c. 51.

(*a*) The maintenance, repair, and reinstatement by or by the direction of the Commissioners of the boundary wall of a royal park or garden so far as adjoining the land or comprised in any building thereon;

(*b*) The character, height, and elevation towards the park, or garden of any future building erected on the land or any alteration of any existing building as shall in the opinion of the Commissioners be reasonably necessary for the protection of the amenities of the adjoining or neighbouring royal park or garden.

(3) Before executing any such deed, the Commissioners shall give to the tenant, or leave or affix upon the land or some building thereon, at least one month's written notice of their intention to execute the deed, and of the conditions, stipulations, and restrictions intended to be comprised therein, and shall consider any objections which the tenant or any person interested in the land may offer within the period aforesaid.

(4) The conditions, stipulations, and restrictions imposed by any such deed shall, as from the commencement of this Act, be binding in perpetuity (unless released by the Commissioners) upon the land affected thereby, and the persons from time to time entitled to any estate or interest therein, and shall be enforceable by the Commissioners in like manner as restrictive covenants running (as regards the burden thereof) with the land.

(5) At any time after the expiration of six months from the commencement of this Act, any person interested in any enfranchised land not affected by any such deed already executed by the Commissioners may give to the Commissioners notice in writing requiring them to declare the conditions, stipulations, and restrictions (if any) intended to be imposed on such land, and the Commissioners shall, within three months after the receipt of such notice, execute such deed as aforesaid in relation to such land, or if they shall fail so to do such land shall be free from all such conditions, stipulations, and restrictions as aforesaid.

(6) Every deed executed under this section shall be executed in duplicate, and one part shall be handed to the owner of the land affected, and the other part shall be retained by the Commissioners.

(7) The Commissioners shall have power in their absolute discretion to release either wholly or partially and permanently or otherwise the conditions, stipulations, and restrictions so imposed by them on any enfranchised land or to waive any breach thereof.

(8) Every person having or hereafter acquiring any estate or interest in any enfranchised land shall (provided a land charge is duly registered as aforesaid) be deemed to have acquired such estate or interest with notice of all conditions, stipulations, and restrictions (if any) for the time being affecting the land by virtue of any deed executed pursuant to this section.

PART VI.

EXTINGUISHMENT OF MANORIAL INCIDENTS.

Extinguishment of manorial incidents.

138.—(1) The manorial incidents affecting enfranchised land saved by Part V. of this Act, and all manorial incidents of a like nature affecting any other land shall by virtue of this Act be extinguished in respect of the land thereby affected, but subject to the payment of such compensation (if any) in respect of any manorial incidents referred to in Part II. of the Thirteenth

Schedule to this Act, whether the incidents are saved by Part V. of this Act or not, as is payable under the provisions of this Part of this Act, upon the happening of any of the following events:—

(*a*) where an agreement in writing between the lord and the tenant of the land, or other persons authorised to effect agreements in this behalf, as to the compensation for the extinguishment is made within ten years after the commencement of this Act, then upon the execution of the agreement;

(*b*) where a notice requiring the ascertainment of such compensation is served by the lord on the tenant or by the tenant on the lord within ten years after the commencement of this Act, then upon service of the notice; but the lord shall not be entitled to serve such notice till after the expiration of five years from such commencement;

(*c*) where no such agreement has been made or notice served before the expiration of ten years after the commencement of this Act, then upon the expiration of those ten years:

Provided that—

(i) the extinguishment of manorial incidents so effected shall not extend to or affect the right to enforce any manorial incident which has become due or enforceable before the date of the extinguishment:

(ii) if in any manor there are not less than one thousand tenants holding land affected by manorial incidents, the Minister may, on the application of the lord or of not less than two thirds of the tenants, by order (to be published in the Gazette) extend the said period of ten years in the case of any such manor and where any such order is made the references in this Part of this Act to the said period of ten years shall be construed as if the extended period had been substituted therefor.

(2) A notice by the tenant requiring the ascertainment of the compensation for the extinguishment of manorial incidents may be served in respect of more than one tenement of the same manor where the tenements are

held by him for the same estate and are subject to the same trusts and incumbrances (if any); and where the lord has served two or more notices in respect of more than one tenement so held by the same tenant, the tenant may, by notice in writing to the lord, require the extinguishment to be effected in respect of all or any of the tenements as if the same had been included in one notice; provided that where a notice is served by a tenant under this subsection, any proceedings thereon shall not be invalidated by reason only that the tenements specified therein are not held for the same estate or are not subject to the same trusts and incumbrances, if any.

(3) An agreement as to the compensation for the extinguishment of such manorial incidents as aforesaid (in this Act referred to as "a compensation agreement") may be effected independently of the Copyhold Act, 1894, by the persons who on a sale would be able to dispose of the manorial incidents and the land affected thereby respectively, or may be effected under Part II. of the Copyhold Act, 1894 (as applied by this Act) by the persons who, if the land had not been enfranchised, would have been entitled to effect an enfranchisement with the consent of the Minister thereunder, but resort shall not be had to the powers conferred by Part II. of the Copyhold Act, 1894, unless the Minister is satisfied that such a course is the most convenient in the circumstances.

57 & 58 Vict. c. 46.

(4) Unless the extinguishment is effected by agreement independently of the Copyhold Act, 1894, the provisions of that Act shall, subject to the amendments thereto effected by and for the purposes of this Part of this Act, apply to the extinguishment of manorial incidents extinguished by or under this Act and to land affected by such extinguishment as if "extinguishment" were therein substituted for "enfranchisement" and "land affected by extinguishment" were substituted for "enfranchised land":

Provided that in the absence of agreement as to the amount of the compensation payable on the extinguishment of manorial incidents affecting enfranchised land that compensation shall, subject to the provisions of this Part of this Act, be such as would have been payable for the enfranchisement of the land affected if it had not been enfranchised by Part V. of this Act.

(5) For facilitating compensation agreements, the following provisions shall have effect—

(i) Any person who, on a sale, would be able to dispose of the land affected by manorial incidents or of the manor (as the case may be) shall have power to agree to the creation of a compensation rentcharge, as hereinafter provided, in like manner as if a power for that purpose had been conferred in extension of the powers conferred by any statute or instrument under which the land or the manor (as the case may be) could have been sold, and subject to the consent in writing of any incumbrancer whose consent or concurrence is required on a sale of the land being obtained, the terminable rentcharge so created shall have the same priority as if it had been created under an award of the Minister:

(ii) The lord or the tenant shall, at the request of the other, furnish a statutory declaration stating particulars of his estate or interest in the manor or in the land affected by manorial incidents and giving such further information (if any) as may be required to show who has power to enter into the compensation agreement as respects the manor or the land and to give a receipt for the compensation money or any instalment thereof:

(iii) If the declaration furnished by the lord shows who has power, as respects the manor, to enter into the compensation agreement and give a receipt for the compensation money or any instalment thereof then in favour of the tenant, if the agreement and receipt are entered into and given in accordance with the declaration, the same shall be valid, and the receipt shall effectually discharge the person paying the compensation money or any instalment thereof from being bound to see to the application or being answerable for any loss or misapplication thereof:

(iv) Where the compensation money or any instalment thereof is paid in accordance with such declaration to a person not entitled to receive the same, he shall be deemed to have received

the money as trustee for the persons entitled thereto:

(v) If the declaration furnished by the tenant shows who has power, as respects the land, to enter into the compensation agreement, then the agreement if made in accordance with the declaration shall, in favour of the lord, be valid:

(vi) The costs incurred by a lord or tenant in furnishing the declaration shall be recoverable from the person requiring the declaration to be furnished, and any costs so recoverable by the tenant from the lord may be deducted from the compensation.

(6) Where a compensation agreement provides for the creation of a compensation rentcharge, and the compensation is to be paid by equal annual instalments with interest secured by an annual terminable rentcharge issuing out of the land comprised in the agreement or any part thereof, that agreement shall operate by virtue of this Act as a grant by all necessary parties of an annual terminable rentcharge of the agreed amount (varying with the amount of the principal and interest for the time being payable) issuing out of the land agreed to be charged therewith of the like nature and with the like incidents as if the agreement had been effected under the Copyhold Act, 1894, as amended by this Act.

(7) Where the compensation (whether ascertained by a compensation agreement or under the Copyhold Act, 1894, as applied by this Act) is to be a gross sum (not payable by instalments) then the land formerly affected by the manorial incidents shall, in priority to any other incumbrances (except tithe rentcharge and any charge having priority by statute), stand charged with the payment of that sum and interest thereon payable half-yearly at the rate of five and a half pounds per cent. per annum from the date of the extinguishment until paid, and for the purpose of recovering the same the person entitled to give a receipt therefor shall, after the expiration of six months from the time when the amount was ascertained, have all the powers conferred by the Conveyancing Act, 1881 (as amended by any subsequent enactment) on a mortgagee by deed whose power of sale has arisen, and as

if the land had been charged by way of legal first mortgage to him.

(8) A receipt for any gross sum or an instalment thereof payable for compensation and the interest thereon shall (but without prejudice to the right of any person interested to recover the interest from the person to whom it is paid) be a sufficient discharge for the same if given by—

(*a*) The lord, where the agreement is effected under Part II. of the Copyhold Act, 1894;

(*b*) The person who would have been entitled to give a receipt for purchase money arising on a sale of the manorial incidents, where the agreement is not effected under Part II. of that Act.

(9) If it appears to the Minister that it is the general wish of the lord and the tenants of any manor that the Minister should assist the parties in arriving at compensation agreements, the Minister may give such assistance, and may for that purpose employ an officer of the Ministry or any other person possessing special knowledge of the matters in question.

(10) Where the manorial incidents formerly affecting any land have been extinguished, then under a contract to sell and convey the freehold, the purchaser shall not, in the absence of any stipulation to the contrary, have the right to call for the title of the person entering into any compensation agreement or giving a receipt for the compensation money, to enter into such agreement or to give such receipt, and shall not be deemed to be affected with notice of any matter or thing of which, if he had contracted that such title should be furnished, he might have had notice.

(11) The forms of compensation agreement and receipt for rents, fines, reliefs, heriots, and fees, and for compensation money contained in Part I. of the Thirteenth Schedule to this Act may, when effected otherwise than under the Copyhold Act, 1894, be used, with such variations as the circumstances of each case may require, and shall be deemed sufficient in the cases to which such forms apply.

(12) The lord and the tenant or other persons authorised to effect the compensation agreement, may in writing agree that any right of the lord which

is preserved by the Twelfth Schedule to this Act, shall be treated as a manorial incident and be extinguished as if it were a manorial incident saved by Part V. of this Act or that there shall be granted to the lord as compensation or as part of the compensation for the extinguishment of manorial incidents, any estate or right of the tenant or any right of way or other easement in or over the land affected for more effectually winning and carrying away any mines or minerals under the land, including any right to let down the surface:

Provided that, where any such agreement relates to mines or minerals, the consideration for the estate or right shall be determined by agreement and not otherwise, and any such agreement for the extinguishment of the right of the lord in or to any mines and minerals shall, subject to the provisions of the agreement, operate as a conveyance to the tenant of such right notwithstanding that the agrement may not be under seal.

Facilities for extinguishing manorial incidents and compensation rentcharges.

139.—(1) For facilitating the extinguishment of manorial incidents under this Part of this Act whether effected under the Copyhold Act, 1894, as applied by this Part of this Act, or independently of that Act, the following provisions shall have effect, and shall, if the extinguishment is effected under the Copyhold Act, 1894, as so applied, have effect as amendments of that Act:—

(i) The lord and the tenant respectively shall furnish to the other and to the Minister any information in his possession, including any plan or map of the land affected, which the other or the Minister may reasonably require with a view to ascertaining what would be the proper amount of compensation:

(ii) No compensation shall be paid to the lord for loss of any right to forfeiture, except as provided by Part II. of the Thirteenth Schedule to this Act, nor for any advantage accruing to the tenant by reason of the extinguishment of any other incident unless the extinguishment of the incident occasioning the advantage is a loss to the lord as well as an advantage to the tenant, nor in excess of such loss:

(iii) The compensation, if any, for loss of office, payable to the steward, when appointed before the

passing of this Act, shall (in default of agreement) be such as is set out in the Fourteenth Schedule to this Act:

(iv) The compensation, if any, to the steward shall be paid by the lord or the person effecting the compensation agreement in right of the manorial incidents, and the amount thereof and any costs or expenses paid or incurred by the lord which are, by virtue of this Act, or by agreement, recoverable from the tenant, shall be added to, and treated as part of the compensation for the extinguishment of the manorial incidents; and the lord or other person aforesaid may require the amount of compensation so paid by him and his costs and expenses incurred in connexion with the extinguishment to be discharged out of capital money held on the trusts of any settlement of the manor, or out of personal estate held on the same trusts as the proceeds of sale of the manor are directed to be held, or may charge the amount on the manor or on land settled on the same limitations or trusts as the manor, or on any rentcharge arising in respect of the extinguishment of any manorial incidents within the manor, and such charge shall be by charge by way of legal mortgage, or by a certificate of charge under the Copyhold Act, 1894, which shall have the same effect as a charge by way of legal first mortgage:

(v) Unless the compensation for the extinguishment of the manorial incidents is within thirty days after the ascertainment thereof paid in a gross sum, the compensation shall (unless the parties otherwise agree) be paid by twenty equal annual instalments, the first instalment to be paid on the first day of January next after the ascertainment of the amount of the compensation, with interest at five and a half per cent. per annum on the amount of the compensation from the date of the extinguishment of the manorial incidents, and a further instalment, with interest at the like rate on so much of the compensation as for the time being remains unpaid, shall be paid on every subsequent first day of January until

the whole compensation shall be fully paid, and so long as any of the said instalments and interest or either of them remain payable, the payment of the compensation shall be secured by a terminable rentcharge issuing out of the land to which the manorial incidents attached equal to the said instalments and interest, payable on the same days but accruing from day to day, and varying with the amount from time to time payable:

Provided that, if the land affected is settled land, and there is sufficient capital money whereout the compensation may be discharged, or if the land affected is held on trust for sale and there is sufficient personal estate (not being chattels real) settled on the same trusts as the proceeds of sale whereout the compensation may be discharged, or if the compensation does not exceed twenty pounds, the compensation shall (unless the court on the application of any person interested otherwise directs) be paid in a gross sum (not by instalments), and in the former cases (subject to any order of the court to the contrary) shall be paid out of such capital money or personal estate, and in any such case may, subject as aforesaid, be recovered by the lord or other person entitled to give a receipt therefor as a debt due to him from the tenant or the trustees of the capital money or personal estate, as the case may be, with interest thereon from the date of the extinguishment at the rate of five and a half per cent. per annum:

(vi) Where any land subject to any manorial incidents is intermixed with, or held or occupied together with, other land, and the land subject to the manorial incidents cannot be identified on the Ordnance Survey map by the description thereof on the rolls of the manor, or otherwise, it shall be lawful for the Minister on the application in writing of the lord or the tenant by order to declare what part of the land so intermixed, or held or occupied together, shall be, or be deemed to be, the land subject to the manorial incidents in question, and to

determine and declare the situation and boundaries thereof, and on such order being made, the land described in such order shall be, or be deemed to be, the land subject to the manorial incidents in question, and such land shall, if the lord or tenant so desire, be defined by reference to the Ordnance Survey map:

(vii) Where manorial incidents have been extinguished within ten years after the commencement of this Act by agreement or by notice, the agreement, award, compensation charge, or certificate shall not be chargeable with any stamp duty, and the Minister shall not require the payment by either party of any office fees or other expenses of the Ministry, except in the case of an application to the Minister which the Minister considers to have been unnecessary or unreasonable:

(viii) The compensation shall, unless otherwise agreed, be ascertained in accordance with the scale set out in Part II. of the Thirteenth Schedule to this Act, which scale shall be binding as a matter of law in all cases, unless on application being made to the Minister on the part either of the lord or the tenant, the Minister decides that owing to any special customs or other exceptional circumstances the application of the scale would work injustice to either party, and if the Minister so decides, the Minister may, if he thinks fit, vary the scale, or fix some other scale which shall be applicable to the case; and where, by reason of the existence of concurrent legal estates in the same land or otherwise, the Minister considers that it would be unjust for the compensation money to be borne exclusively by the estate in fee simple, he may (subject to appeal to the court) decide, as between the fee simple and derivative interests, how the compensation money is to be borne, and whether by all or any of the derivative interests to the exclusion of the fee simple or of any of such interests, but not so as to affect prejudicially the interests of a mortgagee:

(ix) If the notice requiring the ascertainment of the amount of compensation is given by the lord to the tenant or by the tenant to the lord within ten years after the commencement of this Act, the party giving the notice shall, except so far as otherwise provided by this Part of this Act, bear the expenses incurred by the other party in respect of the proceedings for extinguishment, unless the Minister considers that his conduct has been unreasonable, or that he has unreasonably refused a proposal made by the party giving the notice, in which case the Minister may disallow the payment of the whole or any part of the expenses incurred as the Minister may consider just:

Provided that the lord and the tenant may, notwithstanding that a notice has been served, at any time within ten years after the commencement of this Act and before the amount of the compensation has been ascertained pursuant to such notice, agree (subject to discharging any costs incurred in relation to the notice) to extinguish the manorial incidents by a compensation agreement:

(x) Where in the Copyhold Act, 1894, interest is fixed at the rate of four per cent. per annum, the rate shall be increased to five and a half per cent. per annum; and references to perpetual compensation rentcharges shall be construed as referring to compensation payable by instalments and secured by a terminable rentcharge:

(2) For further facilitating the extinguishment of manorial incidents under this Part of this Act, where the extinguishment is effected under the Copyhold Act, 1894, as applied by this Part of this Act, the following amendments shall be made in the Copyhold Act, 1894:—

(*a*) A certificate under the seal of the Minister stating that the compensation for extinguishment has been duly ascertained to be the amount stated in the certificate shall be conclusive evidence of the facts so stated:

(*b*) The compensation for the extinguishment of manorial incidents may (save where the provisions of Part VI. of the Copyhold Act, 1894,

are applicable) be paid to the lord who, if entitled to a limited estate only in the manor, shall forthwith pay the sum received into court or to trustees in the manner provided by the Copyhold Act, 1894, and until such payment he shall be deemed to hold the money as trustee for the persons entitled thereto. The receipt of the person hereby authorised to receive the compensation shall be a sufficient discharge for the money, and the person paying it shall not be bound to see to the application thereof or be liable for its misapplication or loss. But the provisions as to payment of compensation contained in Part VI. of the Copyhold Act, 1894, shall in the cases therein mentioned apply to the payment of compensation under this Part of this Act.

(*c*) Any valuation required to be made for the purpose of assessing compensation shall, unless the parties otherwise agree, be made by a single valuer appointed (in default of agreement between the lord and the tenant) by the Minister, and his remuneration shall, in default of agreement, be fixed by the Minister.

(3) The person who, on a sale, is able to dispose of the land out of which a compensation terminable rentcharge issues may, at any time, on giving not less than one month's notice to the person who on a sale would be able to dispose of the compensation rentcharge, redeem the rentcharge and require the same to be released on payment of the amount of the instalments of principal remaining unpaid with interest up to the date of payment at the rate of five and a half pounds per centum per annum, and may require that any capital money or personal estate which would (if the manorial incidents had not been extinguished) have been applicable for discharging the compensation for the extinguishment of manorial incidents, shall be applied in redeeming the instalments of principal; and the redemption money shall be paid to the person (if any) who would have been entitled to give a receipt for the net proceeds of sale of the rentcharge if sold and shall be held on the same trusts (if any) as such proceeds would have been held; and if there is no such person capable of disposing of the said rentcharge or of

giving a receipt for the redemption money therefor, the same may be redeemed under the provisions of section forty-five of the Conveyancing Act, 1881 (as amended by any subsequent enactment), and the expenses incurred in redeeming the rentcharge shall be dealt with on the same footing as the expenses incurred in redeeming a mortgage.

(4) The Minister may make rules for prescribing the procedure under this section and the manner in which any notice under this section may be served, and generally for giving effect to the provisions of this Part of this Act, and the rules so made shall set forth the provisions of the Copyhold Act, 1894, applicable for the purposes of this Part of this Act as modified and applied thereby.

Provisions where manorial incidents are extinguished on expiration of ten years after the commencement of Act.

140. Where in respect of any enfranchised land or in respect of any other land liable to any heriot, quit rent, chief rent, free rent, or other manorial incident, the manorial incidents affecting the land are by virtue of this Act extinguished upon the expiration of ten years from the commencement of this Act by reason of no compensation agreement having been made or notice given to ascertain the compensation before the expiration of that period, the following provisions shall have effect:—

(*a*) At any time after the expiration of the said ten years and before the expiration of fifteen years from the commencement of this Act the lord or the tenant may apply to the Minister to determine the amount of compensation to be paid by the tenant to the lord for the extinguishment of the said manorial incidents and upon such application being made the Minister shall proceed to determine and award the amount of the compensation in accordance with the Copyhold Act, 1894, as modified and applied by this Part of this Act in like manner as if the lord and the tenant had in accordance with Part I. of that Act agreed in writing that the amount of compensation should be determined by a single valuer appointed by the Minister: Provided that in assessing the compensation no amount shall be allowed in respect of any rent, fine, relief, heriot or fee, which apart from this Part of this Act would have accrued due and become payable, between the expiration of the said period of ten years and the date of the application:

(*b*) The annual terminable rentcharge (if any) payable as compensation shall commence from the date of the application (to be mentioned in the award), and the lord shall not be entitled to any interest in respect of the period between the date of the expiration of the said period of ten years and the date of the application:

(*c*) If no such application has been made before the expiration of the said period of fifteen years, no compensation shall be payable in respect of the extinguishment of manorial incidents:

(*d*) The costs and expenses of determining the compensation in any case to which this section applies shall, notwithstanding anything contained in this Part of this Act, and in default of agreement, be borne by the tenant, unless the Minister considers that the conduct of the lord has been unreasonable or that special considerations apply, in either of which cases the Minister may determine by whom and in what proportions, if any, the costs and expenses are to be borne, and in so determining he shall have regard to what would be just, accordingly as nearly as may be to the advantages derived from the extinguishment by the lord and tenant, respectively, or by either of them.

Application to Crown and Duchy lands.

141.—(1) This Part of this Act shall extend to manors or lands vested in His Majesty in right of the Crown, or of the Duchy of Lancaster, or in right of the Duchy of Cornwall or possessions thereof, or in the Duke of Cornwall for the time being, for any estate, whether in possession, reversion or remainder.

(2) Nothing contained in this Part of this Act shall extend to or affect any condition, stipulation or restriction imposed by the Commissioners of Works under this Act for the protection of any royal park or garden.

Application to manors where derivative interests are entered on rolls or take effect at law.

142. In the case of a manor in which the fines are certain, and in which, before the commencement of this Act, it was the practice for copyholders in fee to grant derivative interests to persons who were admitted as copyholders of the manor in respect of those interests, or where by virtue of this Act legal estates derived out of the fee simple are created for giving effect to former equitable

interests, this Part of this Act shall apply, subject to the following modifications:—

(*a*) The derivative interests and the fee simple subject thereto shall be treated separately, and the person entitled to or having power on a sale to dispose of each separate interest shall (save as otherwise provided in this Part of this Act) only be liable to pay compensation for the extinguishment of manorial incidents to the extent to which that interest is thereby affected, and for the purposes of the Copyhold Act, 1894, shall be deemed to be the tenant:

(*b*) The compensation for the extinguishment of manorial incidents affecting a derivative interest shall in every case be paid in a gross sum.

Construction of Part VI.

143.—(1) Subject to the provisions of this Part of this Act with respect to Crown and Duchy lands, this Part of this Act shall, without prejudice to the general definitions in Part XI. of this Act which when applicable shall apply, be construed as one with the Copyhold Act, 1894:

Provided that the expression "lord" shall, where the context so requires, mean any person having power to effect a compensation agreement in right of the manorial incidents, and for the definition of "tenant" contained in that Act the following definition shall be substituted:—

"The expression 'tenant' means the person in whom the land enfranchised under Part V. of the Law of Property Act, 1922, is thereby made to vest and the persons deriving title under him, and includes the person entitled to the legal estate in or the possession of any other land subject to manorial incidents, whether or not those incidents have been severed from the manor."

(2) Where the right to any manorial incidents is not vested in the lord of the manor, but in some other person, the provisions of this Part of this Act shall in relation to such manorial incidents have effect as if the person who on a sale would be able to dispose of those manorial incidents were substituted for the lord, and the manorial incidents were substituted for the manor.

(3) The provisions of section sixty-seven of the Conveyancing Act, 1881, shall apply to all notices authorised to be given under this Part of this Act to which

section fifty-seven of the Copyhold Act, 1894, does not apply.

(4) All decisions or orders of the Minister made under this Part of this Act shall (subject only to such appeal to the court as may be prescribed by rules of court) be final.

General Provisions.

Power to inspect Court Rolls.

144. Any person interested in enfranchised land may on payment of the fee prescribed by the Lord Chancellor, inspect at any reasonable hour any Court Rolls of the manor of which the land was held; and Court Rolls shall (whether before or after the manorial incidents have been extinguished), for the purposes of section fourteen of the Evidence Act, 1851, be deemed to be documents of such a public nature as to be admissible in evidence on their mere production from the proper custody.

14 & 15 Vict. c. 99.

PART VII.

PROVISIONS RESPECTING LEASEHOLDS.

Conversion of Perpetually Renewable Leaseholds into Long Terms.

Conversion of perpetually renewable leaseholds.

145. For the purpose of converting perpetually renewable leases and underleases (not being an interest in perpetually renewable copyhold land enfranchised by Part V. of this Act, but including a perpetually renewable underlease derived out of an interest in perpetually renewable copyhold land) into long terms, for preventing the creation of perpetually renewable leasehold interests and for providing for the interests of the persons affected, the provisions contained in the Fifteenth Schedule to this Act shall have effect.

General Provisions.

Abolition of interesse termini and as to reversionary leases.

146.—(1) The doctrine of interesse termini is hereby abolished.

(2) As from the commencement of this Act all terms of years absolute shall (whether the interest is created before or after such commencement) be capable of taking effect at law or in equity (according to the estate or powers of the grantor) from the date fixed for commencement of the term, without actual entry, and by way of transmutation of possession.

(3) A term at a rent or granted in consideration of a fine limited after the commencement of this Act to take effect more than twenty-one years from the date of the instrument purporting to create it shall be void, and any contract made after such commencement to create such a term shall likewise be void; but this subsection does not apply to any term taking effect in equity under a settlement, or created out of an equitable interest under a settlement, or under an equitable power, for mortgage, indemnity or other like purposes.

(4) Nothing in subsections (1) and (2) of this section shall prejudicially affect the right of any person to recover any rent or to enforce or take advantage of any covenants or conditions.

PART VIII.

AMENDMENT OF THE LAW OF INTESTACY.

As to Real and Personal Estate.

Trust for sale and provisions as to administration.

147.—(1) On the death, after the commencement of this Act, of a person intestate as to any real or personal estate, the same shall be held by his personal representatives, as to the real estate upon trust to sell the same and as to the personal estate upon trust to call in, sell, and convert into money such part thereof as may not consist of money, with power to postpone such sale and conversion for such a period as the personal representatives, without being liable to account, may think proper, and so that any reversionary interest be not sold until it falls into possession, unless the personal representatives see special reason for sale; and so also that, unless required (for want of other assets) for purposes of administration, personal chattels be not sold except for special reason.

(2) The income of the real and personal estate, including the net rents and profits of the real estate and chattels real after payment of rates, taxes, rent, costs of insurance, repairs, and other outgoings properly attributable to income may, however invested (but without prejudice to the rights of any creditor of the deceased), as from the death of the deceased be treated and applied as income, but this provision shall not affect the right of the personal representatives to accumulate surplus income during a minority.

(3) Out of the net money to arise from the sale and conversion of the real and personal estate (after payment

of costs), and out of the ready money of the deceased, the personal representative shall (so far as the same may not be discharged under the provisions of the will, if any, of the deceased), pay the funeral expenses and debts of the deceased (but without prejudice to the provisions of the Real Estate Charges Acts, 1854, 1867, and 1877) and the costs, charges, and expenses of and incidental to the administration of the real and personal estate, including the death duties payable in respect of the same by reason of the death of the deceased in accordance with the rules relating to the administration of assets applicable to the case. In the case of an insolvent estate the income accruing after the death of the intestate shall also be applicable for the purposes of this subsection.

17 & 18 Vict. c. 113. 30 & 31 Vict. c. 69. 40 & 41 Vict. c. 34.

(4) During a minority or the subsistence of any life interest and pending the distribution of the whole or any part of the estate of the deceased, the personal representatives may invest the residue of the said money, or so much thereof as may not have been distributed in any investments for the time being authorised by statute for the investment of trust money, with power, at the discretion of the personal representatives, to change such investments for others of a like nature.

(5) The residue of the said money and any investments for the time being representing the same, including any part of the estate of the deceased which may be retained unsold and is not required for purposes of administration, is, in this Part of the Act, referred to as "the residuary estate of the intestate," which expression, where the intestate leaves a husband or wife means, in reference to any other persons taking under the intestacy, the residuary estate other than the personal chattels and subject to the sum of one thousand pounds and interest hereinafter charged in favour of such husband or wife.

(6) Nothing in this section affects the rights of any creditor of the deceased or the rights of the Crown in respect of death duties, and where the deceased leaves a will, this section shall have effect subject to the provisions therein contained.

Abolition of descent to heir, curtesy dower, and escheat.

148. With regard to the real estate or personal inheritance of every person dying after the commencement of this Act, there shall be abolished—

(*a*) All existing modes, rules, and canons of descent, and of devolution by special occupancy, or

otherwise, of real estate, or of a personal inheritance, whether operating by the general law or by the custom of any county, locality, or manor, or otherwise howsoever; and

(*b*) Tenancy by the curtesy and every other estate and interest of a husband in real estate as to which his wife dies intestate, whether arising under the general law or by custom or otherwise; and

(*c*) Dower and free bench and every other estate and interest of a wife in real estate as to which her husband dies intestate, whether arising under the general law or by custom or otherwise: provided that where a right to freebench has attached before the commencement of this Act which cannot be barred by a testamentary or other disposition made by the husband, then such right shall, unless released, remain in force in equity; and

(*d*) Escheat to the Crown or the Duchy of Lancaster or the Duke of Cornwall or to a mesne lord for want of heirs.

Statutory trusts in favour of issue of the intestate or a class of persons.

149.—(1) Where under this Part of this Act the residuary estate of an intestate, or any part thereof, is directed to be held on the statutory trusts for the issue of the intestate, then the same shall be held upon the following trusts, namely:—

(i) In trust in equal shares (if more than one) for all or any the children or child of the intestate, living at the death of the intestate, who attain the age of twenty-one years or marry under that age, and for all or any of the issue living at the death of the intestate who attain the age of twenty-one years or marry under that age of any child of the intestate, who predeceases the intestate, leaving issue living at the death of the intestate, such issue to take through all degrees, according to their stocks in equal shares (if more than one) the share which their parent would have taken if living at the death of the intestate, and so that no issue shall take whose parent is living at the death of the intestate and so capable of taking:

(ii) The statutory power of advancement, and the provisions of this Act which relate to maintenance and accumulation of surplus income, shall apply during a minority, but when an infant marries such infant shall be entitled to give valid receipts for the income of the infant's share or interest:

(iii) Where the property held on the statutory trusts for issue is divisible into shares, then any money or property which, by way of advancement or on the marriage of a child of the intestate, shall have been paid to such child by the intestate or settled by the intestate on such marriage (including property covenanted to be paid or settled) or shall have been provided for such child by the will, if any, of the intestate, shall (subject to any contrary intention expressed or appearing from the circumstances of the case) be taken as being so paid, settled, or provided in or towards satisfaction of the share of such child or the share which such child would have taken if living at the death of the intestate, and shall be brought into account, at a valuation (the value of capital when practicable to be reckoned as at the death of the intestate), in accordance with the requirements of the personal representatives; and the value of a life or less interest shall (subject as aforesaid) be liable to be brought into account under this subsection:

(iv) The personal representatives may permit any infant contingently interested to have the use and enjoyment of any personal chattels in such manner and subject to such conditions (if any) as the personal representatives may consider reasonable, and without being liable to account for any consequential loss.

(2) If the trusts in favour of the issue of the intestate fail by reason of no child or other issue attaining a vested interest, then and in such case the residuary estate of the intestate and the income thereof and all statutory accumulations, if any, of the income thereof, or so much thereof as shall not have been paid or applied under any power affecting the same, shall go, devolve and be held under the provisions of this Part

of this Act as if the intestate had died without leaving issue living at the death of the intestate, and references in this Part of this Act to the intestate—

(*a*) "leaving no issue" shall be construed as "leaving no issue who attain a vested interest";

(*b*) "leaving issue" or "leaving a child or other issue" shall be construed as "leaving issue who attain a vested interest."

(3) Where under this Part of this Act the residuary estate of an intestate is directed to be held on the statutory trusts for any class of relatives of the intestate, other than issue of the intestate, then the same shall be held on trusts corresponding to the statutory trusts for the issue of the intestate (other than the provision for bringing any money or property into account) as if such trusts (other than as aforesaid) were repeated with the substitution of references to the members of that class or any of them for the children or child of the intestate.

Succession to real and personal estate on intestacy.

150.—(1) The residuary estate of every person who dies intestate after the commencement of this Act shall be distributed in the manner or be held on the trusts mentioned in this section, namely:—

(i) If the intestate leaves a husband or wife (with or without issue) the surviving husband or wife shall take the personal chattels absolutely, and in addition the residuary estate of the intestate (other than the personal chattels) shall stand charged with the payment of a net sum of one thousand pounds, free of death duties and costs, to the surviving husband or wife with interest thereon from the date of the death at the rate of five pounds per cent. per annum until paid or appropriated; and, subject to providing for that sum and the interest thereon, the residuary estate (other than the personal chattels) shall be held:

(*a*) If the intestate leaves no issue, upon trust for the surviving husband or wife during his or her life;

(*b*) If the intestate leaves issue, upon trust, as to one half or the property appropriated

in respect of the same, for the surviving husband or wife during his or her life, and, subject to such life interest, on the statutory trusts for the issue of the intestate; and, as to the other half or the property appropriated in respect of the same, on the statutory trusts for the issue of the intestate; but if those trusts fail or determine in the lifetime of a surviving husband or wife of the intestate, then upon trust for the surviving husband or wife during the residue of his or her life;

(ii) The personal representative or representatives may, either with the consent of any such tenant for life, not being also the sole personal representative or otherwise with the leave of the court, purchase or redeem the life estate (while it is in possession) by paying the capital value thereof (reckoned according to tables selected by the personal representative) to the tenant for life or the persons deriving title under him and the costs of the transaction, and thereupon the residuary estate of the intestate may be dealt with or distributed free from such life estate:

(iii) If the intestate leaves issue but no husband or wife, then the residuary estate of the intestate shall be held on the statutory trusts for the issue of the intestate:

(iv) If the intestate leaves both parents but no issue, then, subject to the interests of a surviving husband or wife, the residuary estate of the intestate shall belong to the father and mother in equal shares absolutely:

(v) If the intestate leaves one parent only but no issue, then, subject to the interests of a surviving husband or wife, the residuary estate of the intestate shall belong to the surviving father or mother absolutely:

(vi) If the intestate leaves no issue or parent, then, subject to the interests of a surviving husband or wife, the residuary estate of the intestate shall be

held in trust for the following persons living at the death of the intestate, and in the following order and manner, namely:—

First, on the statutory trusts for the brothers and sisters of the whole blood of the intestate; but if no person takes an absolute interest under such trusts; then

Secondly, on the statutory trusts for the brothers and sisters of the half blood of the intestate; but if no person takes an absolute interest under such trusts; then

Thirdly, for the grandparents of the intestate and, if more than one survive the intestate, in equal shares; but if no member of this class takes an absolute interest; then

Fourthly, on the statutory trusts for the uncles and aunts of the intestate (being brothers or sisters of the whole blood of a parent of the intestate); but if no person takes an absolute interest under such trusts; then

Fifthly, on the statutory trusts for the uncles and aunts of the intestate (being brothers or sisters of the half blood of a parent of the intestate); but if no person takes an absolute interest under such trusts; then

Sixthly, for the surviving husband or wife of the intestate absolutely.

(vii) In default of any person taking an absolute interest under the foregoing provisions, the residuary estate of the intestate shall belong to the Crown or to the Duchy of Lancaster or to the Duke of Cornwall for the time being (as the case may be) as bona vacantia, and in lieu of any right to escheat, and this Part of this Act shall bind the Crown, the said Duchy and the said Duke so far as necessary to give effect to the provisions thereof, but not so as to affect the time within which proceedings for

the recovery of land or other property devolving on the Crown or the said Duchy or Duke may be instituted. The Crown, the said Duchy or Duke may, out of the whole or any part of the property devolving on them, provide for dependents, whether kindred or not, of the intestate, and other persons for whom it may be considered that the intestate ought to have made provision.

(2) Provided that under the foregoing provisions of this section a husband and wife shall for all purposes of distribution or division be treated as two persons.

(3) Section twenty-five of the Statute of Frauds the Statutes of Distribution and the Intestates' Estates Act, 1890, are hereby repealed as regards England and Wales, and— 29 Car. 2. c. 3. 53 & 54 Vict. c. 29.

(*a*) references to the Statutes of Distribution in an instrument inter vivos made or in a will coming into operation after the commencement of this Act, shall be construed as references to this Part of this Act;

(*b*) where a testator dies after the commencement of this Act, the executor shall (subject to his rights and powers for the purposes of administration) be a trustee for the persons entitled under this part of this Act, in respect of any residue not expressly disposed of, unless it appears by the will that the executor is intended to take such residue beneficially;

(*c*) trusts declared in an instrument inter vivos made or in a will coming into operation before the commencement of this Act, by reference to the Statutes of Distribution, shall, unless the contrary thereby appears, be construed as referring to the Statutes so repealed.

(4) Where the intestate leaves a will effectually disposing of part of his property, this section shall take effect subject to the provisions therein contained, and (save as provided by this Part of this Act in regard to the issue of the intestate) no beneficial interest acquired under the will shall be liable to be brought into account.

(5) The personal representatives may raise—

(*a*) the net sum of one thousand pounds or any part thereof and the interest thereon payable to the surviving husband or wife of the intestate on the security of the whole or any part of the residuary estate of the intestate (other than the personal chattels), so far as that estate may be sufficient for the purpose or the said sum and interest shall not have been satisfied by an appropriation under the statutory power available in that behalf; and

(*b*) in like manner the capital sum (if any) required for the purchase or redemption of the life estate of the surviving husband or wife of the intestate, or any part thereof not satisfied by the application for that purpose of any part of the residuary estate of the intestate, and the amount (if any) properly required for the payment of the costs of the transaction.

(6) If there is only one personal representative (not being a trust corporation) then, during any minority or the subsistence of a life interest, any person interested or the guardian, committee or receiver of any such person may apply to the court under the Trustee Act, 1893 (as amended by any subsequent enactment), for the appointment of new trustees either in addition to or in place of the personal representative.

Heirs taking by purchase.

151. Nothing in this Part of this Act shall affect the right in equity of any person to take, by purchase, as heir either general or special.

Wills in contemplation of marriage. 7 Will. 4. & 1 Vict. c. 26.

152. A will expressed to be made in contemplation of a marriage shall, notwithstanding anything in section eighteen of the Wills Act, 1837, or any other statutory provision or rule of law to the contrary, not be revoked by the solemnisation of the marriage contemplated.

Miscellaneous Provisions.

Death duties not affected.

153. Nothing in this Part of this Act shall render real estate liable to legacy duty or exempt it from succession duty.

Construction and as to a lunatic's and an infant's real estate.

154.—(1) In this Part of this Act—

(i) "Real and personal estate" mean and include every beneficial interest (including rights of entry and reverter) of the intestate in real and

personal estate which (otherwise than in right of a power of appointment or of the testamentary power conferred by this Act to dispose of entailed interests) he could, if of full age and capacity, have disposed of by his will;

(ii) "Real estate" where the context admits includes chattels real;

(iii) "Intestate" includes a person who leaves a will, but dies intestate as to some beneficial interest in his real or personal estate;

(iv) "Personal chattels" mean carriages, horses, stable furniture and effects (not used for business purposes), motor cars and accessories (not used for business purposes), garden live and dead stock and effects, domestic animals, plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use or ornament, wines, liquors and consumable stores, but do not include any chattels acquired for business purposes nor money or securities for money.

(2) The foregoing provisions of this Part of this Act shall not apply to any beneficial interest in real estate (not including chattels real) to which a lunatic (whether so found or not) or defective living and of full age at the commencement of this Act, and unable, by reason of his incapacity, to make a will, who thereafter dies intestate without having recovered his testamentary capacity, was entitled at his death; and such beneficial interest (not being an interest ceasing on his death) shall, without prejudice to any will of the deceased, devolve in accordance with the law in force before the commencement of this Act applicable to freehold land.

(3) Where an infant dies after the commencement of this Act without having been married, and independently of this subsection he would, at his death, have been equitably entitled under a settlement (including a will or an intestacy) to an estate in fee simple or absolute interest in freehold land, or in any property settled to devolve therewith or as freehold land, such infant shall be deemed to have had an estate tail or entailed interest, and the settlement shall be construed accordingly.

PART IX.

REPEAL AND RE-ENACTMENT, WITH AMENDMENTS, OF PART I. OF THE LAND TRANSFER ACT, 1897, RELATING TO PERSONAL REPRESENTATIVES.

Meaning of "real estate" and constitution of representative in regard to interests therein not ceasing on the death.

155.—(1) In this Part of this Act the expression "real estate" includes—

(i) Chattels real, and land in possession, remainder, or reversion, and every interest in or over land to which a deceased person was entitled at the time of his death:

(ii) Real estate held on trust or by way of mortgage (by demise or subdemise) or security, but not money to arise under a trust for sale of land, nor money secured or charged on land.

(2) A testator shall be deemed to have been entitled at his death to any interest in real estate, passing under any gift contained in his will which operates as an appointment under a general power to appoint by will, or under the testamentary power conferred by this Act to dispose of an entailed interest.

(3) The interest of a deceased person under an estate tail or an entailed interest shall (unless disposed of under the testamentary power conferred by this Act) be deemed an interest ceasing on his death, but any further or other interest of the deceased in remainder or reversion which is capable of being disposed of by his will shall not be deemed to be an interest so ceasing.

(4) The interest of a deceased person under a joint tenancy where another tenant survives the deceased shall be deemed an interest ceasing on his death.

(5) On the death of a corporator sole his interest in the corporation's real and personal estate shall be deemed to be an interest ceasing on his death and shall devolve to his successor.

(6) The personal representative shall be the representative of the deceased in regard to his real estate to which he was entitled for an interest not ceasing on his death as well as in regard to his personal estate.

(7) After the commencement of this Act, probate or letters of administration shall not be granted to more than four persons in regard to the same property; and letters

of administration shall, if there is a minority or a life interest arises under the will or intestacy, be granted either to a trust corporation (with or without an individual) or to not less than two individuals.

Devolution of real estate to personal representative.

156.—(1) Real estate to which a deceased person was entitled for an interest not ceasing on his death shall on his death, and notwithstanding any testamentary disposition thereof, devolve from time to time on the personal representative of the deceased, in like manner as before the commencement of this Act chattels real devolved on the personal representative from time to time of a deceased person.

(2) All enactments and rules of law, and all jurisdiction of any court with respect to the appointment of administrators or to probate or letters of administration, or dealings before probate in the case of chattels real, and with respect to costs and other matters in the administration of personal estate in force before the commencement of this Act, and all powers, duties, rights, equities, obligations, and liabilities of a personal representative in force at the commencement of this Act with respect to chattels real, shall apply and attach to the personal representative and shall have effect with respect to real estate vested in him, and in particular all the like powers for the survivors or survivor of two or more personal representatives, as well as for a single personal representative, and for all the personal representatives together to dispose of or otherwise deal with real estate, shall, as in case of personal representatives with respect to chattels real before the commencement of this Act, belong to the personal representatives or representative of a deceased person with respect to his real estate.

(3) The personal representatives for the time being of a deceased person shall be deemed in law his heirs and assigns within the meaning of all trusts and powers binding or conferred on him as a trustee or mortgagee of real estate.

(4) Provided that, where there are two or more personal representatives, a conveyance of real estate devolving under this section shall not be made without the concurrence therein of all such representatives or an order of the court; save that where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the other or others

to prove, any conveyance of the real estate may be made by the proving executor or executors for the time being, without an order of the court, and shall be as effectual as if all the persons named as executors had concurred therein.

(5) Where an executor who has renounced probate is permitted to withdraw the renunciation and prove the will, such probate shall take effect and be deemed always to have taken effect without prejudice to the previous acts and dealings of any other personal representative who has previously proved the will or taken out letters of administration, and a memorandum of the subsequent probate shall be endorsed on the original probate or letters of administration.

(6) It is hereby declared that all conveyances of any interest in real or personal estate made to a purchaser either before or after the commencement of this Act by a person claiming to be a personal representative of a deceased person and to whom probate or letters of administration have been granted are valid, notwithstanding any subsequent revocation or variation (either before or after the commencement of this Act) of the probate or letters of administration, but this subsection shall take effect without prejudice to any order of the court made before the commencement of this Act.

(7) Probate and letters of administration may be granted in respect of the real estate of a deceased person or any part thereof, and either separately or together with his personal estate, and may also be granted in respect of real estate only where there is no personal estate, and a grant of letters of administration to real estate may be limited in any way the court thinks proper.

(8) In granting letters of administration the court shall have regard to the rights of all persons interested in the real and personal estate of the deceased person, or the proceeds of sale thereof, and in particular letters of administration, with the will annexed, may be granted to a devisee or legatee; and in regard to land settled previously to the death of the deceased, and not by his will, may be granted to the trustees of the settlement.

(9) Provision may be made by rules of court for giving effect to the provisions of this Part of this Act and in particular for adapting the procedure and practice on the grant of letters of administration to the case of

real estate; and for dispensing with sureties to administration bonds where the grant is made to a trust corporation or to two or more individuals, or in any other proper case.

(10) Without prejudice to the rights and powers of a personal representative, the appointment of a personal representative in regard to real estate shall not (save as hereinafter provided) affect any rule as to marshalling or as to administration of assets, nor the beneficial interest in real estate under any testamentary disposition, nor any mode of dealing with any beneficial interest in real estate, or the proceeds of sale thereof, nor the right of any person claiming to be interested in the real estate to take proceedings for the protection or recovery thereof against any person, other than the personal representative:

Provided that in the case of deaths occurring after the commencement of this Act the real and personal estate of the deceased shall (but without prejudice to the right of retainer of a personal representative or his right to make preferential payments or transfers) be administered in accordance with the rules applicable to the administration of estates by the court, and the rules applicable to the administration of assets out of court or in bankruptcy are hereby abolished.

(11) Section thirty of the Conveyancing Act, 1881, Part I., sections one to five (inclusive), of the Land Transfer Act, 1897, and section twelve of the Conveyancing Act, 1911, are hereby repealed as regards England and Wales as respects deaths occurring after the commencement of this Act.

(12) Nothing in this Part of this Act shall alter any duty payable in respect of real estate or impose any new duty thereon.

(13) Section three of the Wills Act, 1837, shall (without prejudice to the rights and interests of the personal representative under this section or under Part I. of the Land Transfer Act, 1897) authorise and be deemed always to have authorised a bastard or any other person, whether he left an heir or any next of kin surviving him or not, to dispose of real estate by his will 1 Vict. c. 26.

(14) This section applies to the case of every person dying after the commencement of this Act, and binds the Crown, the Duchy of Lancaster, and the Duke of Cornwall for the time being.

Abolition of syndics in the case of trust corporations

157.—(1) Where a trust corporation is appointed an executor, either alone or jointly with another person, the court may grant probate to such corporation either solely or jointly with another person, as the case may require, and the corporation may act as executor accordingly.

(2) Letters of administration may be granted to any such corporation either solely or jointly with another person, and the corporation may act as administrator accordingly.

(3) After the commencement of this Act no probate or letters of administration shall be granted to a syndic or nominee on behalf of any such corporation.

(4) Any officer authorised for the purpose by such corporation or their directors or governing body may swear affidavits, give security, and do any other act or thing which the court may require on behalf of the trust corporation with a view to the grant of probate or letters of administration to the corporation, and the acts of such officer shall be binding on the corporation, and he shall be entitled to be kept indemnified by the corporation in regard to matters so authorised as aforesaid.

(5) Where, at the commencement of this Act, any interest in real or personal estate is vested in a syndic on behalf of any such corporation acting as the personal representatives of a deceased person, the same shall, by virtue of this Act, vest in the corporation, and the syndic shall be kept indemnified by the corporation in regard to any interest so vested.

(6) This section shall have effect without prejudice to any other statutory power to grant probate to a corporation.

Effect of assent or conveyance by personal representative.

158.—(1) A personal representative may assent to the vesting in any person who may be interested, either beneficially or as a trustee or personal representative, of any real estate to which the testator or intestate was entitled, and which devolved upon the personal representative; and the assent shall operate to vest in that person the estate or interest to which the assent relates, and, unless a contrary intention appears, the assent shall relate back to the death of the deceased; and the statutory covenants referred to in subsection (1) (F) of section seven of the Conveyancing Act, 1881, may be implied in an assent in like manner as in a conveyance by deed.

(2) An assent to the vesting of a legal estate shall be in writing, signed by the personal representative, and shall name the person in whose favour it is given and shall operate to vest in that person the legal estate to which it relates; and an assent not in writing or not in favour of a named person shall not be effectual to pass a legal estate.

(3) A statement in writing by a personal representative that he has not given or made an assent or conveyance of a legal estate, shall, in favour of a purchaser (but without prejudice to any previous disposition made in favour of another purchaser deriving title mediately or immediately under the personal representative), be sufficient evidence that an assent or conveyance has not been given or made in respect of the legal estate to which the statement relates, and a personal representative making a false statement, in regard to any such matter, shall be liable in like manner as if the statement had been contained in a statutory declaration, and a conveyance by him of a legal estate to a purchaser made on the faith of such a statement shall (without prejudice as aforesaid) operate to transfer or create the legal estate expressed to be conveyed in like manner as if no previous assent or conveyance had been made by the personal representative.

(4) An assent or conveyance by a personal representative of a legal estate shall, in favour of a purchaser, be taken as sufficient evidence that the person in whose favour the assent or conveyance is given or made is the person entitled to have the legal estate conveyed to him, and upon the proper trusts (if any), but shall not otherwise prejudicially affect the claim of any person rightfully entitled to the estate vested or conveyed or any charge thereon.

(5) A conveyance of a legal estate by a personal representative to a purchaser shall not be invalidated by reason only that the purchaser may have notice that all the debts, liabilities, funeral and testamentary or administration expenses, duties, and legacies of the deceased have been discharged or provided for.

(6) An assent or conveyance given or made by a personal representative shall not, except in favour of a purchaser of a legal estate, prejudice the right of the personal representative or any other person to recover the estate or interest to which the assent or conveyance relates, or to be indemnified by such estate or interest against any duties, debt, or liability to which such estate

or interest would have been subject if there had not been any assent or conveyance.

(7) A personal representative may, as a condition of giving an assent or making a conveyance, require security for the discharge of any such duties, debt, or liability.

(8) An assent may, in the case of land registered under the Land Transfer Acts, be in the form prescribed under those Acts, and the production of the assent in the prescribed form shall authorise the Land Registrar to register the person named in the assent as proprietor of the land.

(9) This section shall not operate to impose any stamp duty in respect of an assent.

(10) Where the personal representatives of the deceased are registered as proprietors of the land on his death, a fee shall not be chargeable for registering any disposition of the land by them unless the disposition is for valuable consideration.

As to giving possession and enforcing rights against personal representative.

159.—(1) A personal representative, before giving an assent or making a conveyance in favour of any person entitled, may permit such person to take possession of the land, and such possession shall not prejudicially affect the right of the personal representative to take or resume possession nor his power to convey the land as if he were in possession thereof, but subject to the interest of any lessee, tenant or occupier in possession or in actual occupation of the land.

(2) Any person interested, claiming possession, the appointment of a receiver, or a conveyance, or an assent to the vesting of real estate, or to be registered as proprietor thereof under the Land Transfer Acts, may apply to the court for directions with reference thereto, and the court may make such vesting or other order as may be deemed proper.

Appropriation of property by personal representative in satisfaction of legacy or share.

160.—(1) The personal representative may appropriate any part of the real or personal estate, including things in action, of the deceased in the actual condition or state of investment thereof at the time of appropriation in or towards satisfaction of any legacy bequeathed by the deceased, or of any other interest or share in his property, whether settled or not, as to the personal representative may seem just and reasonable, according to the respective rights of the persons interested in the property of the deceased :

Provided that—

(i) An appropriation shall not be made under this section in respect of or so as to affect prejudicially any specific devise or bequest:

(ii) An appropriation of property, whether or not being an investment authorised by law or by the will (if any) of the deceased for the investment of money subject to the trust, shall not (save as hereinafter mentioned) be made under this section except with the consent of the following persons, namely:—

(*a*) Of the person (if any) of full age and capacity absolutely and beneficially entitled;

(*b*) When made for the benefit of an infant or lunatic (whether so found or not) or defective, whether or not the legacy share or interest is settled, of his testamentary or other guardian, committee, or receiver on his behalf;

(*c*) When made in respect of any settled legacy share or interest, either of the trustee (not being also the personal representative), if any, thereof, or of the person (if any) of full age and capacity who may for the time being be entitled to the income:

(iii) No consent shall (save of such trustee as aforesaid) be required on behalf of a person who may come into existence after the time of appropriation, or who cannot be found or ascertained at that time:

(iv) If no committee or receiver of a lunatic or defective has been appointed then, if the appropriation is of an investment authorised by law or by the will (if any) of the deceased for the investment of money subject to the trust, no consent shall be required on behalf of the lunatic or defective:

(v) If, independently of the personal representative, there shall be no trustee of a settled legacy share or interest, and no person of full age and capacity entitled to the income thereof, then (without prejudice to the provisions relating to consents on behalf of infants, lunatics, and defectives) no consent shall be required to an appropriation in respect of

such legacy share or interest, provided that the appropriation is of an investment authorised as aforesaid;

(vi) Any property duly appropriated under the powers conferred by this section shall thereafter be treated as an investment authorised for the purposes of the trust, and may be retained or dealt with accordingly.

(2) For the purposes of such appropriation, the personal representative may (by a duly qualified agent) ascertain and fix the value of the respective parts of the real and personal estate and the liabilities of the deceased as he may think fit; and may make any conveyance which may be requisite for giving effect to the appropriation.

(3) An appropriation made pursuant to this section shall bind all persons interested in the property of the deceased whose consent is not hereby made requisite.

(4) The personal representative shall, in making the appropriation, have regard to the rights of any person who may thereafter come into existence, or who cannot be found or ascertained at the time of appropriation, and of any other person whose consent is not required by this section.

(5) This section shall not prejudice any other power of appropriation conferred by law or by the will (if any) of the deceased, and shall take effect with any extended powers conferred by the will (if any) of the deceased, and where an appropriation is made under this section, in respect of a settled legacy, share or interest, the property appropriated shall remain subject to all trusts for sale and powers of leasing, disposition, and management or varying investments which would have been applicable thereto or to the legacy, share or interest in respect of which the appropriation is made, if no such appropriation had been made.

(6) In this section, a settled legacy, share or interest includes any legacy, share or interest to which a person is not absolutely entitled in possession at the date of the appropriation.

(7) In favour of a purchaser, any disposition of real estate or any interest therein made in purported exercise of the powers conferred by this section shall be deemed to have been made in accordance with the requirements of this section and after all requisite consents (if any) have been given.

(8) In the case of registered land, the production of the evidence prescribed under the Land Transfer Acts of an appropriation under this section shall authorise the Land Registrar to register the person to whom the property is appropriated as proprietor of the land.

(9) This section applies only in the case of deaths occurring after the commencement of this Act, but applies whether the deceased died intestate or not.

Appointment of special or additional personal representatives in the case of settled land.

161.—(1) Where settled land becomes, under Part I. of this Act, vested in a personal representative not being a trustee of the settlement upon trust to convey the same to or assent to the same vesting in the tenant for life of full age or statutory owner in order to give effect to a settlement created before the death of the deceased and not by his will, such representative may, either before or after probate or letters of administration have been granted, disclaim his office in regard only to such settled land without disclaiming the same in regard to other property.

(2) Whether such disclaimer is made or not, the trustees of the settlement, or any person beneficially interested thereunder, may apply to the Chancery Division of the High Court for an order appointing a special or additional personal representative in respect of the settled land; and a special or additional personal representative, when appointed under the order, shall be in the same position as if probate or administration had originally been granted to him alone in place of the original personal representative or to him jointly with the original personal representative, as the case may be, limited to the settled land, but without prejudice to the previous acts and dealings (if any) of the personal representative originally constituted.

(3) The court may make such order as aforesaid subject to such security, if any, being given by or on behalf of the special or additional personal representative, as the court may direct, and shall, unless the court considers that special considerations apply, appoint such persons as may be necessary to secure that the representatives to act in respect of the settled land shall be the same persons as are the trustees of the settlement; and an office copy of the order when made shall be furnished to the Principal Probate Registry for entry, and a memorandum of the order shall be endorsed on the probate or letters of administration.

(4) A testator may appoint as his special executors, in regard to settled land, the persons who are at his death the trustees of the settlement thereof, and may appoint other persons, either with or without such trustees or any of them, to be his general executors in regard to his other property and assets, and probate may be granted to such trustees specially limited to the settled land. A testator who dies after the commencement of this Act shall, in default of an express appointment to the like effect, be deemed to have appointed the persons who, at his death, are the trustees of the settlement to be his executors in regard to the settled land.

(5) The special personal representatives may dispose of the settled land without the concurrence of the general personal representatives, who may likewise dispose of the other property and assets of the deceased without the concurrence of the special personal representatives; and in this subsection the expression "special personal representatives" means the representatives appointed to act for the purposes of settled land and includes any original personal representative who is to act with an additional personal representative for those purposes.

(6) Where settled land becomes vested in a corporation as a personal representative on trust to give effect to a settlement created before the death of the testator and not by his will, then any fee chargeable by the corporation for the acceptance of the office of personal representative shall be discharged exclusively out of the free property and assets of the testator in exoneration of the settled land, unless the corporation was acting as the trustee of the settlement.

(7) The person applying for the appointment of a special or additional personal representative shall give notice of the application to the Principal Probate Registry in the manner prescribed.

(8) Rules of court may be made for prescribing for all matters required for giving effect to the provisions of this section, and in particular—

(*a*) For notice of any application being given to the proper officer;

(*b*) For production of orders, probates, and letters of administration to the registry;

(*c*) For the endorsement on a probate or letters of administration of a memorandum of an order, subject or not to any exceptions;

(*d*) For the manner in which the costs are to be borne;

(*e*) For protecting purchasers, trustees, and other persons in a fiduciary position, dealing in good faith with a personal representative before notice of any order has been endorsed on the probate or letters of administration or a lis pendens has been registered in respect of the proceedings.

Powers of personal representatives in regard to administration.

162.—(1) The personal representative may limit or demise land for a term of years absolute, with or without impeachment for waste, to trustees on usual trusts for raising or securing any principal sum and the interest thereon for which the real estate, or any part thereof, is liable, and may limit or grant a rentcharge for giving effect to any annual or periodical sum for which the land or the income thereof or any part thereof is liable.

(2) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the others or other to prove, then all the powers which are by law conferred on the personal representatives or representative may be exercised by the proving executors or executor for the time being and shall be as effectual as if all the persons named as executors had concurred therein.

Powers of management.

163.—(1) In dealing with the real and personal estate of the deceased his personal representatives shall, for purposes of administration, or during any minority or the subsistence of any life interest, or until the period of distribution arrives, have—

(i) The same powers and discretions, including power to raise money by mortgage (as regards land by demise or subdemise or by charge by way of legal mortgage) or charge (whether or not by deposit of documents), as a personal representative had before the commencement of this Act, with respect to personal estate vested in him; and

(ii) All the powers (including power to override equitable interests and powers as if the same affected the proceeds of sale), discretions, and duties conferred or imposed by law on trustees holding land upon an effectual trust for sale: Provided that nothing in this section shall

authorise a sole personal representative (not being a trust corporation) to override equitable interests and powers which are paramount to his legal estate; and

(iii) All the powers conferred (whether by reference to the Settled Land Acts or otherwise) by Part I. of this Act on trustees for sale, and so that every contract entered into by a personal representative shall be binding on and be enforceable against and by the personal representative for the time being of the deceased, and may be carried into effect, or be varied or rescinded by him and in the case of a contract entered into by a predecessor, as if it had been entered into by himself.

(2) Nothing in this section shall affect the right of any person to require an assent or conveyance to be made.

PART X.

AMENDMENTS OF THE LAND TRANSFER ACTS, 1875 AND 1897.

Interests in Land capable of Registration.

As to undivided shares.

164.—(1) Where at the commencement of this Act an undivided share in land is registered, the entirety of the land shall (save as hereinafter provided) as soon as practicable, after such commencement, be registered subject to the prescribed evidence being furnished and in the prescribed manner in the names of the persons who, under Part I. of this Act, hold the land on trust for sale, free from any charge or incumbrance (whether formerly registered or not) affecting an undivided share, but subject to any incumbrance (capable of registration) which affects the entirety of the land, and in the meantime no entry (other than a caution under section fifty-three of the Act of 1875 against registered dealings) shall be made in the register as respects the title of the undivided share, which title shall be closed when the entirety of the land is registered pursuant to this section.

(2) The Public Trustee shall not be registered as proprietor pursuant to this section unless and until he has been duly requested to act in the trust in accordance with Part I. of this Act and has accepted the trust.

(3) After the commencement of this Act—

(*a*) Neither an undivided share in land, nor a charge affecting any such undivided share shall be capable of registration under the Acts;

(*b*) "Land" in the Acts shall not include an undivided share therein;

(*c*) Except so far as may be required in respect of undivided shares registered at the commencement of this Act, all references in the Acts to undivided shares in land or to dealings therewith are hereby repealed.

(4) If an undivided share in land is removed from the register pursuant to section seventeen of the Act of 1897, within one year from the commencement of this Act, the former registration of that share shall not render necessary the registration of the entirety of the land, and this section shall have effect as if that share had not been registered.

Registration of legal estates.

165. After the commencement of this Act, estates capable of subsisting as legal estates shall be the only interests in land of which a proprietor can be registered and all other interests in registered land (except overriding interests and interests entered on the register at or before such commencement) shall take effect in equity as minor interests, but all interests (except undivided shares in land) entered on the register at such commencement which are not legal estates shall be capable of being dealt with under the Acts until (pursuant to rules to be made for that purpose) the register is rectified on the occasion of the first dealing for value to secure that the entries therein shall be similar to those which would have been made if the land had been registered after the commencement of this Act.

Amendments and Powers.

Amendments and powers.

166. The amendments, repeals, and provisions contained in the First and Second Parts of the Sixteenth Schedule to this Act shall have effect.

Charges and Mortgages of Registered Land.

Provisions as to registered charges.

167.—(1) A charge under section twenty-two of the Act of 1875 and any alteration thereof, to be noted on

the register, shall be effected by deed, and the following provisions shall apply thereto.

(2) A charge on freehold land shall (subject to any provision to the contrary contained in the charge) take effect as a charge by way of legal mortgage as if it had contained a demise to the charge creditor of a term of three thousand years without impeachment of waste in the registered land intended to be charged, subject to a proviso for cesser on redemption of the charge; and a charge on leasehold land held for a term of years absolute shall (subject as aforesaid) take effect as a charge by way of legal mortgage as if it had contained a subdemise to the charge creditor of the land for the residue of the term created by the registered lease except the last three days thereof, subject to a proviso for cesser on redemption; and in each case as if the term or subterm had commenced from the date of the instrument of charge.

(3) A charge or a deed of alteration of a charge may (subject to the provisions of Part I. of this Act) contain, in the case of freehold land, an express demise, and in the case of leasehold land an express subdemise of the land to the creditor for a term of years absolute, subject to a proviso for cesser on redemption.

(4) Any such demise or subdemise or charge by way of legal mortgage shall take effect from the date of the delivery of the deed containing the same, but subject to the estate or interest of any person whose estate or interest (whenever created) is registered or noted on the register before the date of registration of the charge or deed of alteration.

(5) On registration of any transfer or transmission of a charge the registered term or subterm granted by the charge or any deed of alteration shall, without any conveyance or assignment and notwithstanding anything to the contrary in the transfer or any other instrument, vest in the registered proprietor for the time being of the charge.

(6) Where a charge is registered in the names of two or more proprietors (whether jointly or in undivided shares) the registered mortgage term implied or comprised in the charge shall (but without prejudice to the beneficial interests in the mortgage money) vest in them as joint tenants, and the registered proprietor for the time being of the charge, or his personal representative, shall have

power to give valid receipts, notwithstanding that the mortgage money may be held in undivided shares, in like manner as if the money had been held on a joint account.

(7) Any charge registered on or before the commencement of this Act shall take effect as a demise or subdemise of the land in accordance with the provisions of Part I. of this Act, and the registered estate or term shall (without prejudice to any registered charge or any mortgage term or subterm created by this Act) vest in the person appearing by the register to be entitled to the ultimate equity of redemption.

(8) Rules shall be made for applying the provisions of Part I. of this Act and of this section to the case of charges by way of submortgage, whether registered before or after the commencement of this Act.

(9) On the notification on the register of the entire cessation of a registered charge, whether as to the whole or part only of the land affected thereby the term or subterm granted by the charge or any deed of alteration so far as it affects the land to which the discharge extends, shall merge and be extinguished in the registered estate in reversion without any surrender.

(10) Notwithstanding the creation of a term or subterm under this section, a transfer under the power of sale conferred by section twenty-seven of the Act of 1875 shall (subject to any prior incumbrances or other entries on the register), as heretofore, operate to transfer the registered estate or the whole of the residue of the term created by the registered lease, as the case may be, and the term or subterm shall become merged, and any purported disposition of or dealing with the mortgage term or subterm apart from the charge, and any process or act purporting to keep alive the term or subterm after the cessation of the charge shall be void.

(11) A charge made under section twenty-two aforesaid (as amended by section nine of the Act of 1897) may be registered notwithstanding that it contains any trust, power to appoint new trustees, or other provisions for giving effect to the security.

(12) Subject to any entry to the contrary on the register, the vesting of any term in accordance with this section in the registered proprietor of a charge shall, subject to the right of redemption, have the same effect

as if such proprietor had been registered as the transferee for valuable consideration of the mortgage term.

(13) In section twenty-five of the Act of 1875, after the words "profits thereof" there shall be inserted the words, "and may, after entry into possession and after "having acquired a title under the Limitation Acts, "execute a declaration, in the prescribed form, that the "right of redemption is barred, and thereupon he shall "be entitled, subject to furnishing any evidence which "may be prescribed in support thereof, to be registered "as proprietor of the land, with the same consequences "as if he had been a purchaser for valuable consideration "of the land under the power of sale."

(14) At the end of section twenty-six of the Act of 1875 (which relates to foreclosure) there shall be inserted the following provision:—

"The foreclosure shall be completed by the registration of the proprietor of the charge (or such other person as may be named in the foreclosure order absolute for that purpose) as the proprietor of the land, and by the cancellation of the charge and of all incumbrances inferior thereto; and such registration shall operate in like manner and with the same consequences as if the proprietor or other person aforesaid had been a purchaser for valuable consideration of the land under the power of sale."

(15) At the end of section twenty-seven of the Act of 1875 (which confers a power of sale) there shall be inserted the following provision:—

> "The transfer shall operate and be completed by registration, in the same manner, as nearly as may be (but subject to any alterations on the register affecting the priority of the charge), as a transfer for valuable consideration by the registered proprietor of the land at the time of the registration of the charge would have operated or been completed, and, as respects the land transferred, the charge and all incumbrances inferior thereto shall be cancelled."

(16) In addition and without prejudice to the powers conferred by the Acts, the registered proprietor for the time being of a charge shall (subject to any entry on the register to the contrary) have and may exercise all the powers conferred on mortgagees by the Conveyancing Acts, 1881 to 1922, in the like circumstances as are

provided by those Acts, including the powers of leasing and of accepting surrenders of leases.

(17) An instrument of charge may be in any form provided that it complies with the requirements of this Act in regard to mortgages capable of registration.

(18) This section applies whether the land is registered before or after the commencement of this Act.

Mortgages protected on the register.

168.—(1) The registered proprietor of any freehold or leasehold land may, subject to any entry to the contrary on the register, mortgage, by deed or otherwise, the land or any part thereof (by way of demise or subdemise or of charge by way of legal mortgage) in any manner which would have been permissible if the land had not been registered and with the like effect: provided that the registered land comprised in the mortgage is described in a manner sufficient to enable the registrar to identify the same without reference to any other document.

(2) A mortgage made under this section may, if by deed, be protected by a caution in a specially prescribed form and in no other way, and a mortgage, if not by deed, may be protected by a caution lodged under section fifty-three of the Act of 1875.

(3) The entry of a caution prescribed under this section shall be deemed a dealing capable of being restrained by caution lodged under section fifty-three of the Act of 1875.

(4) Until the mortgage is protected on the register under this section, it shall be capable of taking effect only in equity and of being overridden as a minor interest.

(5) Where a mortgage by deed has been protected by a caution in the specially prescribed form, the mortgagee, or the persons deriving title under him, may, subject to furnishing sufficient evidence of title, require the mortgage to be registered as a charge with the same priority as the caution.

(6) When a mortgage by deed has been so registered, the registered proprietor thereof shall, subject to any entry to the contrary on the register, have all the powers which are by the Acts conferred on the proprietor of a registered charge; but so long as the mortgage is protected only by a caution, the mortgagee shall not be

capable of dealing with the registered land by registered disposition.

(7) Any mortgage created under this section (whether registered or protected by a caution in a specially prescribed form) shall devolve and may be transferred, discharged, reconveyed or otherwise dealt with by the same instruments and in the same manner as if the land had not been registered, subject, as follows:—

(*a*) Where a mortgage has been registered as a charge the devolutions, dealings and notification of cessation shall be registered in the same manner and with the same consequences as in the case of a registered charge:

(*b*) Where the mortgage has been protected only by a specially prescribed caution then such devolutions and dealings shall be protected in like manner and in no other way:

(*c*) Subject to any entry to the contrary on the register, the priorities arising in respect of devolutions and dealings shall be regulated by the order of application for registration or for the entry of a caution in the specially prescribed form.

(8) An ad valorem fee may be charged for a caution specially prescribed under this section, but, if and when a mortgage protected by such a caution is registered as a charge, any ad valorem fee paid in respect of the caution may be taken towards satisfaction of the fees payable on such registration of the mortgage.

(9) Rules shall be made for giving effect to the provisions of this section, and in particular for providing in what case documents, or copies thereof, shall be left at the registry, for providing for the marking of documents not retained at the registry, and for extending and adapting the provisions of this section to the case of submortgages:

Provided that where—

(*a*) The mortgage relates also to property other than registered land; or

(*b*) The mortgage is only protected by a caution; or

(*c*) The nature of the security is such that it is not expedient or practicable that the mortgage should be retained at the registry;

then neither the mortgage nor any instruments dealing therewith nor discharges affecting other property besides the registered land shall be required to be permanently retained by the registrar.

(10) All mortgages made under this section which are registered shall take effect as registered dispositions, and in the Acts the expression "registered charge" shall include a registered mortgage.

(11) This section applies whether the land is registered before or after the commencement of this Act.

As to securing further advances.

169.—(1) When a registered charge is made for securing further advances, the registrar shall, before making any entry on the register which would prejudicially affect the priority of any further advance thereunder, give to the registered proprietor of the charge at his registered address, notice by registered post of the intended entry, and the proprietor of the charge shall not, in respect of any further advance, be affected by such entry, unless the advance is made after the date when the notice ought to have been received in due course of post; and if, by reason of any failure on the part of the registrar or the post office in reference to the notice, the proprietor of the charge suffers loss in relation to a further advance, he shall be entitled to be indemnified under the Acts in like manner as if a mistake had occurred in the register; but if the loss arises by reason of an omission to register or amend the address for service, no indemnity shall be payable under the Acts.

(2) This section applies whether the land is registered before or after the commencement of this Act.

Registered Estates and Subsidiary Deeds.

Registered estates in registered land.

170.—(1) The estate for the time being vested in the registered proprietor of the land shall only be capable of being disposed of or dealt with by him in the manner authorised by the Acts.

(2) Where a tenant for life of full age or statutory owner is registered as proprietor of settled land, the same estate shall vest in him as if the land had been conveyed to him in fee simple or for the residue of the term (free from the minor interests capable of being overridden by the exercise of the statutory powers of a tenant for life) upon the trusts of the settlement.

(3) The registration of a proprietor of land (whether before or after the commencement of this Act) shall, without any conveyance, vest and be deemed always to have vested in him, in the case of freehold land the legal estate in fee simple in possession or in the case of leasehold land the legal term created by the registered lease, but subject to the overriding interests, if any, including any mortgage term or charge by way of legal mortgage created by or under this Act which has priority to the registered estate.

(4) Where any legal estate left outstanding at the date of first registration (whether before or after the commencement of this Act) or disposed of or created under section forty-nine of the Act of 1875 before the commencement of this Act becomes satisfied, or the registered proprietor of the land becomes entitled to require the same to be vested in or surrendered to him, and the entry (if any) for protecting the same on the register has been cancelled, then the same shall, without any conveyance, vest and be deemed always to have vested in the registered proprietor of the land, as if the same had been conveyed or surrendered to him, as the case may be.

(5) Nothing in this section shall operate to render valid a lease registered with possessory or good leasehold title.

As to subsidiary deeds off the register.

171.—(1) Where any transaction relating exclusively to registered land or to a registered charge is capable of being effected and is effected by a registered disposition then, subject to any prescribed exceptions, any deed or instrument, other than the registered disposition, which is executed by the registered proprietor for the purpose of giving effect to the transaction shall be void so far as the transaction is carried out by the registered disposition.

(2) Rules may be made for providing for cases in which any additional deed or instrument may be properly executed and for enabling the registrar to certify that in any special cases an additional deed or instrument will be proper and valid.

Conversion into Absolute or Good Leasehold Title.

Conversion into absolute

172.—(1) Where land has been registered with a possessory title before the commencement of this Act,

and the registrar is satisfied as to the title, he may register it at any time as absolute or good leasehold, whether the registered proprietor consents to such registration or not, but, unless the registration is made on the application of the registered proprietor, without charging any fee therefor. or good leasehold title.

(2) Where the registrar is satisfied as to the title, he may, on a transfer for valuable consideration of land registered with a qualified, good leasehold or possessory title, enter the title of a transferee as absolute or good leasehold as the case may require or admit, whether the transferee consents or not, but in that case no additional fee shall be charged.

(3) The following provisions shall apply with respect to land registered with a qualified or possessory title :—

(*a*) Where the title registered is possessory the application for the registration of a transfer shall, subject to any provisions to the contrary which may be prescribed, be accompanied by all the documents of or relating to the title (including contracts, abstracts, Counsel's opinions, requisitions, and replies, and other like documents), in the applicant's possession or under his control; and where the title registered is qualified, with such documents (if any) as relate to the matters excepted from the effect of registration; and

(*b*) Where the land has been registered, if freehold land, for fifteen years, or if leasehold land, for ten years, with a possessory title, the registrar shall, if satisfied that the registered proprietor is in possession, and after giving such notices (if any) as may be prescribed, enter the title of the proprietor of the freehold land as absolute and the title of the proprietor of the leasehold land as good leasehold, save that if the date of first registration occurred before the first day of January, nineteen hundred and nine, the registrar shall have power to postpone the registration of an absolute or good leasehold title until, after investigation, he is satisfied in regard to the title;

(*c*) Where the land has been registered with a good leasehold title for at least ten years, the registrar may, subject to the payment of any additional insurance fee and to any advertisements or inquiries which may be prescribed, and if he is satisfied that the registered proprietor or successive registered proprietors has or have been in possession during the said period, at the request of the proprietor enter his title as absolute.

(4) Provided that, if any claim adverse to the title of the registered proprietor has been made, an entry shall not be made on the register under this section unless and until the claim has been disposed of.

(5) Any person (other than the registered proprietor) who suffers loss by reason of any entry on the register made by virtue of this section shall be entitled to be indemnified under the Acts as if a mistake had been made in the register.

Effect of the Limitation Acts in respect of Registered Land.

Acquisition of title by possession.

173. Section twelve of the Act of 1897 is hereby repealed and the following section shall be substituted therefor:—

(1) The Limitation Acts shall apply to registered land in the same manner and to the same extent as those Acts apply to land not registered, except that where, if the land were not registered, the estate of the person who is the registered proprietor of the land would be extinguished, such estate shall not be extinguished but shall be deemed to be held, by the registered proprietor for the time being, in trust for the person who has acquired title against any registered proprietor by virtue of the said Acts, but without prejudice to the estates and interests of any other person interested in the land whose estate or interest is not extinguished by those Acts:

(2) Any person claiming to have acquired a title under the Limitation Acts to the registered estate in the land may apply to be registered as proprietor thereof:

(3) The registrar shall, on being satisfied as to the applicant's title, enter the applicant as proprietor of the land either with absolute, good leasehold, or possessory title, as the case may require, but without prejudice to any estate or interest protected by any entry on the register which may not have been extinguished under the Limitation Acts, and such registration shall, subject as aforesaid, have the same effect as the registration of a first registered proprietor; but the registered proprietor or the applicant or any other person interested may apply to the court for the determination of any question arising under this section:

(4) If, in the opinion of the registrar, any purchaser or person deriving title under him whose title, being registered or protected on the register, is prejudicially affected by any entry under this section, ought, in the special circumstance of the case, to be compensated, then the registrar may award to him indemnity of such amount as he may consider just, in like manner as if such purchaser or person had suffered loss by the rectification of the register, provided that no sum shall be payable for indemnity under this section, unless that sum can be paid out of the indemnity fund without recourse to the Consolidated Fund:

(5) Rules may be made for applying (subject to any necessary modifications) the provisions of this section to cases where an easement, right or privilege has been acquired by prescription.

Rectification and Indemnity.

Rectification of the register.

174.—(1) The register may be rectified pursuant to an order of the court or by the registrar, subject to appeal to the court, in any of the following cases, but subject to the following provisions:—

(*a*) In any of the cases mentioned in sections ninety-five or ninety-six of the Act of 1875 (as amended); and

(*b*) In any case and at any time with the consent of all persons interested; and

(*c*) Where the court or the registrar is satisfied that the registration of any person as first proprietor of land, or of a charge, mortgage, or other interest, or that any notice or other entry in the register for protecting any estate, right, or interest has been obtained by fraud, by annulling the registration, notice or other entry; and

(*d*) Where two or more persons are, by mistake, registered as proprietors of the same freehold or leasehold land or of the same charge, mortgage, or other registered interest, by cancelling one or more of the registrations; and

(*e*) In any other case where, by reason of any error or omission in the register, or by reason of any entry procured by fraud or made under a mistake, it may be deemed just to rectify the register.

(2) The register may be rectified under this section, notwithstanding that the rectification may affect any estates, rights, charges, or interests acquired or protected by registration, or by any entry on the register, or otherwise.

(3) The register shall not be rectified, except for the purpose of giving effect to an overriding interest, so as to affect the title of the registered proprietor of the land who is in possession, unless such proprietor is a party or privy or has caused or substantially contributed, by his act, neglect, or default, to the fraud, mistake, or omission in consequence of which such rectification is sought, or unless the immediate disposition to him was void, or the disposition to any person through whom he claims (otherwise than for valuable consideration) was void, or unless for any other reason, in any particular case, it is considered that it would be unjust not to rectify the register against him.

(4) Where a person is in possession of registered land in right of a minor interest, he shall, for the purposes of this section, be deemed to be in possession as agent for the registered proprietor.

Right to indemnity in certain cases.

175.—(1) Subsections (1), (2), (3), and (4) of section seven of the Act of 1897 are hereby repealed

and the following provisions shall have effect in lieu thereof:—

"(1) Subject to the provisions of the Acts to the contrary, any person suffering loss by reason of any rectification of the register under the Acts shall be entitled to be indemnified:

"(2) Where an error or omission has occurred in the register, but the register is not rectified, then any person suffering loss by reason of such error or omission, shall, subject to the provisions of the Acts, be entitled to be indemnified:

"(3) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry for inspection or safe custody, or an error in any official search, he shall be entitled to be indemnified under the Acts:

"(4) Subject as hereinafter provided, a registered proprietor of land or a charge claiming in good faith under a forged disposition shall be deemed to have suffered loss thereby and be entitled to be indemnified under the Acts:

"(5) No indemnity shall be payable under the Acts in any of the following cases:—

"(*a*) Where the applicant has himself caused or substantially contributed to the loss (whether arising by reason of any fraud, error, or omission) by his fraud, or derives title (otherwise than under a disposition for valuable consideration which is registered or protected on the register) from a person so committing fraud;

"(*b*) On account of any mines and minerals not being comprised in the registered title, or of the existence of any adverse rights to work or get mines and minerals, unless a note is entered on the register that the mines and minerals are registered;

"(*c*) On account of costs incurred in taking or defending any legal proceedings without the consent of the registrar:

"(6) Where an indemnity is paid in respect of the loss of an estate or interest in or charge on land, the amount so paid shall not exceed—

"(*a*) Where the register is not rectified, the value of the estate, interest or charge at

the time when the error or omission which caused the loss, was made;

"(*b*) Where the register is rectified, the value (if there had been no rectification) of the estate, interest or charge immediately before the time of rectification.

"(7) In granting any indemnity the registrar may have regard to any costs and expenses properly incurred in relation to the matter, and may add the same to the amount of the indemnity money which would otherwise be payable."

(2) In subsection (6) of section seven of the Act of 1897 the word "fraud" is hereby substituted for the words "act, neglect, or default" at the end of that subsection.

(3) The registrar shall be entitled to enforce, on behalf of the Crown, any express or implied covenant or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which indemnity has been paid.

(4) Subsection (7) of section seven aforesaid shall take effect subject to the following provisions:—

(i) Where a claim to indemnity arises in consequence of the registration of land with an absolute or good leasehold title, the claim shall be enforceable only if made within six years from the date of such registration, except in the following cases:—

(*a*) Where at the date of registration the person interested is an infant, the claim by him may be made within six years from the time he attains full age; or

(*b*) In the case of settled land, or land held on trust for sale, where a person is interested in remainder or reversion, the claim by him may be made within six years from the time when his interest falls into possession; or

(*c*) Where a claim arises in respect of a restrictive covenant affecting freehold land which by reason of notice or the registration of a land charge or otherwise was binding on the first registered proprietor at the time of first registration, the claim shall only be

enforceable within six years from the breach of the covenant:

(ii) Where any person interested is entitled as a proprietor of a charge or as a mortgagee protected by a caution in the specially prescribed form, the claim by him may be made within six years from the last payment in respect of principal or interest.

Contracts, Acquisition of Easements, and Evidence.

As to contracts and the acquisition of easements or other benefits.

176.—(1) Subject to any entry to the contrary on the register, the registered proprietor of any land, or charge, may enter into any contract in reference thereto in like manner as if the land or charge had not been registered, and, subject to any disposition for valuable consideration which may be registered or protected on the register before the contract is completed or protected on the register, the same may be enforced as a minor interest against any succeeding registered proprietor in like manner and to the same extent as if he were an assign.

(2) A contract entered into for the benefit of registered land or a charge may (if the same would have been enforceable by the owner for the time being of the land or charge, if not registered, or by a person deriving title under the party contracting for the benefit) be enforced by the registered proprietor for the time being of the land or charge.

(3) The registered proprietor of land may accept for the benefit thereof the grant of any easement, right, or privilege or the benefit of any restrictive covenant or provision (affecting other land whether registered or not) in like manner and to the same extent as if he were legally and beneficially entitled to the fee simple in possession or to the term created by the registered lease for his own benefit free from incumbrances.

(4) If before the registration of any freehold or leasehold land with an absolute or good leasehold title any easement, right, or privilege has been acquired for the benefit of the land, then, on such registration, the easement, right, or privilege shall, subject to any entry to the contrary on the register, become appurtenant to the registered estate in like manner as if it had been granted to the proprietor who is registered as aforesaid.

Provisions as to vendor and purchaser, and effect of covenants for title.

177.—(1) Subsection (1) of section sixteen of the Act of 1897 is hereby repealed and the following provisions shall be substituted therefor:—

On a sale of registered land—

(*a*) The vendor shall, notwithstanding any stipulation to the contrary, at his own expense furnish the purchaser with an authority to inspect the register, and, if required, with a copy of the subsisting entries in the register and of any filed plans and copies or abstracts of any documents or any part thereof noted on the register so far as they respectively affect the land to be sold (except charges or incumbrances registered or protected on the register which are to be discharged at or prior to completion):

Provided that unless the purchase money exceeds one thousand pounds the costs of the copies and abstracts of the said entries plans and documents shall, in the absence of any stipulation to the contrary, be borne by the purchaser requiring the same:

(*b*) The vendor shall, subject to any stipulation to the contrary, at his own expense furnish the purchaser with such copies, abstracts and evidence (if any) in respect of any subsisting rights and interests appurtenant to the registered land as to which the register is not conclusive, and of any matters excepted from the effect of registration as the purchaser would have been entitled to if the land had not been registered:

(*c*) Except as aforesaid, and notwithstanding any stipulation to the contrary, it shall not be necessary for the vendor to furnish the purchaser with any abstract or other written evidence of title, or any copy or abstract of the land certificate or of any certificate of charge:

(*d*) Where the register refers to a filed abstract or copy of or extract from a deed or other document such abstract or extract shall as between vendor and purchaser be assumed to be correct, and to contain all material portions of the original, and no person dealing with registered land or a registered charge shall

have a right to require production of the original, or be affected in any way by any provisions of the said document other than those appearing in such abstract, copy, or extract, and any person suffering loss by reason of any error or omission in such abstract, copy, or extract shall be entitled to be indemnified under the Acts.

(2) Subsection (3) of section sixteen aforesaid is hereby repealed and in substitution therefor rules may be made for prescribing the effect of covenants implied by virtue of section seven of the Conveyancing Act, 1881, in dispositions of registered land.

Office copies &c. to be evidence, and as to right of production.

178.—(1) Office copies of and extracts from the register and of and from documents and plans filed in the registry shall be admissible in evidence in all causes and matters and between all persons or parties to the same extent as the originals would be admissible, but any person suffering loss by reason of the inaccuracy of any such copy or extract shall be entitled to be indemnified under the Acts, and no solicitor, trustee, personal representative, or other person in a fiduciary position shall be answerable in respect of any loss occasioned by relying on any such copy or extract.

(2) When any document is delivered or returned by the registrar to any person, he may require such person to give, at the cost of the registry, a statutory acknowledgment of the right of the registrar and his successors in office to production of such document and to delivery of copies thereof, and may endorse notice of such right on the document, and the acknowledgment shall not be liable to stamp duty.

Provisions as to Bankruptcy.

Provisions as to bankruptcy of registered proprietor.

179.—(1) The registrar shall as soon as practicable after registration of a petition in bankruptcy as a lis pendens under Part I. of this Act register a notice (in this Act called a creditor's notice) under section fifty of the Act of 1875 (as amended) against the title of any registered proprietor of land or a charge which appears to be affected, and such notice shall protect the rights of all creditors, and unless cancelled by the registrar in the prescribed manner such notice shall remain in force

until a bankruptcy inhibition is registered or the trustee in bankruptcy is registered as proprietor. No fee shall be charged for the registration of the notice.

(2) Until a creditor's notice is registered, a petition in bankruptcy filed after the commencement of this Act shall not, as respects any registered disposition for money or money's worth of land or a charge, be notice or evidence of any act of bankruptcy therein alleged.

(3) The registrar shall, as soon as practicable after registration under the Land Charges Registration and Searches Act, 1888, and Part I. of this Act, of a receiving order in bankruptcy against a registered proprietor of land or a charge, enter an inhibition (in this Act called a bankruptcy inhibition) against the title of the proprietor in the prescribed manner. No fee shall be charged for the registration of the inhibition.

(4) From and after the entry of a bankruptcy inhibition, no dealing affecting the estate or charge of the registered proprietor, other than the registration of the trustee in bankruptcy, shall be entered on the register until the inhibition is vacated as to the land or charge affected or some part thereof.

(5) Notwithstanding anything to the contrary contained in subsection (6) of section nine of the Act of 1897, the trustee in bankruptcy shall not be entitled to deal with the land or charge by a registered disposition unless and until he is registered as proprietor thereof.

(6) If and when a registered proprietor of land or a charge is adjudged bankrupt, his registered estate or interest, if belonging to him beneficially, and whether acquired before or after the date of adjudication, shall vest in the trustee in bankruptcy in accordance with the statutory provisions relating to bankruptcy for the time being in force.

(7) The title of the trustee in bankruptcy acquired after the commencement of this Act shall as from the date of the disposition nevertheless be void as against a purchaser in good faith for money or moneys worth who is registered as proprietor of land or a charge after an available act of bankruptcy has been committed unless, at the date of such disposition, either a creditor's notice or a bankruptcy inhibition has been registered; but a purchaser who, at the date of the execution of the registered disposition, has notice of an available act of bank-

ruptcy, or of the petition, receiving order, or adjudication, shall not be deemed to take in good faith.

(8) Where the estate of a bankrupt proprietor suffers loss by reason of the omission of the registrar to register a creditor's notice or bankruptcy inhibition, as required by this section, or on account of the execution or registration of a disposition after a petition is registered as a lis pendens or after a receiving order is registered and before the registration of a creditor's notice or bankruptcy inhibition, then the trustee in bankruptcy shall be entitled to indemnity as a person suffering loss by reason of an error or omission in the register.

(9) If neither a creditor's notice nor a bankruptcy inhibition is registered against a bankrupt proprietor, then nothing in this section shall prejudicially affect a registered disposition of a registered estate or charge acquired by the bankrupt after adjudication, which would have been valid by virtue of section forty-seven of the Bankruptcy Act, 1914, if the land or charge had not been registered. 4 & 5 Geo. 5. c. 59.

(10) If and when a bankruptcy inhibition is wholly or partially vacated, otherwise than by reason of the registration of the trustee in bankruptcy, any registered estate or interest vested in the trustee in bankruptcy shall, as respects the land or charge to which the vacation extends, be divested, and the same shall vest in the registered proprietor in whom it would have been vested if there had been no adjudication in bankruptcy.

(11) The official receiver or trustee in bankruptcy may inspect the register of any proprietor against whom a receiving order has been made, and any creditor, on behalf of himself and all other creditors, or the official receiver or trustee in bankruptcy may lodge a caution against a registered proprietor in respect of any minor interest affecting the registered estate.

(12) Rules shall be made under the Acts—

(*a*) For postponing the registration of a creditor's notice or bankruptcy inhibition, where the names, address and description of the debtor appearing in the application for the registration of the lis pendens or receiving order are not identical with those stated in the register until the registrar is satisfied as to the identity of the debtor;

(*b*) For requiring the official receiver to notify to the registrar any mistake occurring in the receiving order or any other fact relevant to any proposed amendment in the register; and for enabling the registrar to make any consequential amendment;

(*c*) For providing for the whole or partial vacation (subject to notice to the official receiver or trustee in bankruptcy and to his right to appeal to the court) of a bankruptcy inhibition, where the receiving order is rescinded or the bankruptcy is annulled, or the registrar is satisfied that the bankruptcy proceedings do not affect or have ceased to affect the statutory powers of the bankrupt to deal with the registered estate or charge.

Disclaimer of a lease by a trustee in bankruptcy.

180. Where a trustee in bankruptcy disclaims a registered lease under section fifty-four of the Bankruptcy Act, 1914, and an order is made by the court vesting the lease in any person, the order shall direct the alteration of the register in favour of the person in whom the lease is so vested, and in such case the registrar shall, on being served with such order, forthwith (without notice to the bankrupt or any other person and without requiring production of the land certificate) alter the register accordingly, and no right to indemnity under the Acts shall arise by reason of such alteration.

As to Death Duties.

Protection of purchasers from claims for death duties.

181. Section thirteen of the Act of 1897 and all other provisions of the Acts relating to the death duties are hereby repealed, and the following section shall be substituted therefor:—

(1) A registered disposition in favour of a purchaser shall operate to vest in him the estate or interest transferred or created by the disposition free from all claims of His Majesty for death duties, notwithstanding that notice of a claim for duties may be noted on the register under this section, but the person making the disposition and the funds and other property derived therefrom, shall be and remain liable for all such duties and claims for which he was liable:

(2) A disposition to any person, other than a purchaser, shall take effect subject to any charge for payment of death duties and the interest thereon, whether notice of a claim for the duties is entered on the register or not:

(3) A personal representative, in whom the registered estate vests on a death, shall be accountable for all death duties which may become leviable or payable on the death of the deceased in respect of the registered land or any interest therein:

(4) In every other case the proprietor of a registered estate (other than a purchaser who acquires a registered estate free from the charge for duties) shall be accountable for all the death duties which become leviable or payable in respect of that estate or of any minor interest capable of being overridden by a registered disposition made by him:

(5) The personal representative or other proprietor who disposes of a registered estate to a purchaser by a disposition which is registered or protected on the register and the proceeds of sale, funds and other property (if any) derived from the disposition and the income thereof shall (subject as herein-after provided) be and remain liable in respect of and stand charged with the payment of the duties which are overridden by the disposition, together with any interest payable in respect of the same:

(6) Notwithstanding that any duties may be payable by instalments, on a disposition of a registered estate by way of sale, exchange, or charge, all death duties payable in respect of the land dealt with remaining unpaid which are overridden by such disposition, shall immediately become payable and carry interest at the rate of four pounds per centum per annum from the date of the disposition:

Provided that where, by reason of this subsection, an amount is paid or becomes payable for duties and interest in excess of the amount which would have been payable if the duties had continued to be paid by instalments, then

such excess shall be repaid or allowed as a deduction by the Commissioners of Inland Revenue:

(7) Where, on the death of a registered proprietor, a charge for death duties has been registered as a land charge under the Land Charges Registration and Searches Act, 1888, and Part I. of this Act, the registrar shall enter notice on the register in the prescribed manner of the charge:

(8) When any such notice is entered, the registrar shall, before registering or entering notice of any disposition which would operate to override the charge for duties, give notice of the intended registration or entry to the said Commissioners, and cancel the notice of the claim for duties so far as it relates to the land or interest therein comprised in the disposition:

(9) When all claims for duties have been satisfied, or no such claims arise, or the said Commissioners are satisfied that the duties will be paid or commuted, they shall notify the fact to the registrar, who shall thereupon cancel the notice (if any) of the claim:

(10) For the purpose of raising the duty, and the costs of raising the same, the personal representative or other registered proprietor accountable as aforesaid shall have all the powers which are by any statute conferred on any person for raising the duty:

(11) Notwithstanding that any duties are by this section made payable by the personal representative or registered proprietor of the land, nothing herein contained shall affect the liability of the persons beneficially interested or of their minor interests in respect of any duty, and they shall accordingly account for or repay the same and any interest and costs attributable thereto, to the said Commissioners or to the personal representative or other proprietor made accountable, and nothing in this section shall affect the remedies of the said Commissioners against any person other than a purchaser:

(12) Capital money liable to be laid out in the purchase of land to be settled in the same manner as the land in respect of which the duty became payable, and personal estate held on the same trusts as the proceeds of sale of land (in respect of which the duty became payable) held on trust for sale may, by the direction of the person accountable, and although the duty is only payable in respect of a minor interest which is or is capable of being overridden by a disposition to a purchaser, be applied in discharging all or any of the duties and costs aforesaid:

(13) Where the duties would not, except by virtue of the last subsection, be payable out of the capital money, or personal estate aforesaid, then the amount so paid shall be repaid by the person liable for the duty to the trustees of the settlement or trustees for sale, by the like instalments and at the like rate of interest by and at which the unpaid duty and the interest thereon might have been paid if the land had not been disposed of, and the minor or other interests of the persons liable and remaining subject to the settlement of the land or of the proceeds of sale shall stand charged with the repayment of the instalments and interest aforesaid; and the trustees of the settlement or the trustees for sale shall be entitled to recover and receive any excess of duty which may become repayable by the said Commissioners:

(14) Nothing in this section shall impose on a personal representative, trustee, or other person in a fiduciary position, as such, any liability for payment of duty, in excess of the assets (including real estate) vested in him or in the trustees of the settlement, which shall for the time being be available in his or their hands for the payment of the duty, or which would have been so available but for his or their own neglect or default, or impose on the proprietor of a registered charge any liability to discharge death duties unless the claim was paramount to his charge:

(15) In this section "purchaser" only includes a purchaser for money or money's worth:

(16) This section (including the repeals therein) only applies to death duties which become payable or leviable after the commencement of this Act.

Personal Representative.

Special or additional personal representatives.

182.—(1) Where a special or additional personal representative is appointed by the court under Part IX. of this Act, in reference to registered land, then on production of the order he shall be registered as proprietor either solely or jointly with any of the other personal representatives, as the case may require, and a copy of the order shall be filed at the registry.

(2) Pending an application for the appointment of a special or additional personal representative a caution may be lodged under section fifty-three of the Act of 1875 by any person intending to apply to the court for the appointment.

Compulsory Registration on Sale.

Power to require registration of title on sale.

183.—(1) In subsection (1) of section twenty of the Act of 1897 the words beginning "a person shall not" down to the end of that subsection are hereby repealed, and the following words are hereby substituted therefor:—

"Every conveyance on sale of freehold land, executed on or after the day specified in the order which makes registration of title to land in that area compulsory on sale, shall (save as hereinafter provided), on the expiration of two months from the date thereof or of any authorised extension of that period, become void so far as regards the grant or conveyance of the legal estate in the land within the area affected comprised in the conveyance unless the grantee or his successor in title or assign has in the meantime applied to be registered as proprietor of such land; and the expression 'grantee' means the person who is entitled to be registered as proprietor of the land:

"Provided always that the registrar, or the court on appeal from the registrar, may, on the application of any person interested in any particular case in which the registrar or the court is

satisfied that the application for first registration cannot be made within the said period, or can only be made within that period by incurring unreasonable expense, or that the application has not been made within the said period by reason of some accident or other sufficient cause, make an order extending the said period; and if such order be made, then, upon the registration of the grantee or his successor or assign, a note of the order shall be endorsed on the conveyance.

"Provided also that, in the case of land in an area where, at the date of the commencement of the Law of Property Act, 1922, registration of title is already compulsory on sale, this subsection shall apply to every conveyance on sale of freehold land executed on or after the day of the commencement of that Act."

(2) Rules under the Acts may provide for applying the provisions thereof to dealings with the land which may take place between the date of such conveyance and the date of the application to register, as if such dealings had taken place after the date of first registration; for registration tc be effected as of the date of the application to register, and for applying the provisions of section twenty aforesaid (as amended) to the case of leasehold land.

(3) In section twenty aforesaid (as amended) the expression "conveyance on sale" does not include an enfranchisement or extinguishment of manorial incidents whether under Parts V. and VI. of this Act, or otherwise, but shall after the commencement of this Act include a conveyance by way of exchange, where money is paid for equality of exchange.

(4) For preserving the power to make orders under section twenty aforesaid at the instance of a county council, the following provision shall be substituted for subsection (8) of that section, namely:—

"At a meeting of a county council, at which at least two-thirds of the whole number of the members shall be present, a resolution may be passed, at any time after the commencement of this Act, signifying the desire of the county council

that registration of title shall be compulsorily applied to the county over which such council has jurisdiction, or to any part thereof; and thereupon an order may be made as respects the county or part of a county to which the resolution extends":

Subsections (5) and (6) of section twenty aforesaid shall not apply to any order so made.

(5) At any time after the expiration of ten years from the commencement of this Act, but not earlier, an order may be made under the said section without complying with the provisions of subsections (6) (7) and (9) thereof, but subject to and in accordance with the following provisions:

(i) The county council and any law society whose district is proposed to be affected, or either of them, may, within six months after receipt of notice by the county council of any proposed order, pass a resolution that a public inquiry shall be held in the county proposed to be affected, as to the desirability of extending compulsory registration of title (on sale) to the county or part of the county intended to be affected; and the county council within ten days of the receipt of such notice shall furnish a copy thereof to any such law society, and notwithstanding anything to the contrary in subsection (5) of section twenty aforesaid notice of the proposed order may be given at any time within eighteen months before the date on which the order is to take effect:

(ii) A copy of the resolution shall be sent to the Lord Chancellor:

(iii) After the receipt of a copy of the resolution the Lord Chancellor shall, after consultation with the Law Society, appoint a person, being a practising member of the legal profession, to hold and conduct the inquiry and shall fix the date and place on and in which the inquiry is to be held:

(iv) The Lord Chancellor may make rules as to the conduct of any such inquiry, the manner in which the expenses thereof are to be borne and any other matters relating to the inquiry, and may revoke or vary any such rules:

(v) At any such inquiry the county council and such other persons as may be admitted by the person holding the inquiry, or may be nominated by or on behalf of any such law society as aforesaid and all other persons willing to give evidence, shall be entitled to submit reasons, whether local or general, for or against the extension of compulsory registration of title (on sale) to the county or part of the county intended to be affected:

(vi) The person holding the inquiry shall, after the completion thereof, forthwith report the result, stating the facts and reasons upon which the result is arrived at, in writing to the Lord Chancellor, who shall cause the report to be published in the Gazette or in such other manner as he may prescribe:

(vii) If, after the publication of the report, or after the period, within which a resolution that an inquiry be held may be passed, has expired without any such resolution being passed, the Lord Chancellor decides to proceed with the draft Order (with or without amendment) he shall cause such draft to be laid upon the table of each House of Parliament:

(viii) The Order shall not be made unless both Houses by resolution approve the draft, either without modification or with modifications to which both Houses agree; but, upon such approval being given, the Order may be made in the form in which the draft has been approved:

(ix) Not more than one such Order shall be made within the period of eleven years from the commencement of this Act:

(x) The first Order shall not affect more than one county with any county borough surrounded by or contiguous to such county:

(xi) Any proceedings preliminary to the making of the Order may be taken before the expiration of the said period of ten years.

(6) Where an order is made under the said section which applies to any of the Ridings of Yorkshire the order

may provide for the transfer to the office of Land Registry of the business of the local deed registry established for the Riding, or for the local deed registry being constituted a district registry under the Acts and for such district registry being administered by the county council or, with the consent of the county council, may contain such other provisions as appear expedient with respect to the local deed registry; and the order may contain such supplemental, incidental, and consequential provisions (including provisions for the modification of the enactments relating to the constitution and administration of the local deed registry, and for the payment of compensation to the county council of the Riding in respect of future loss of fees or otherwise, and to the officers of the registry) as appear necessary or expedient for the purposes of the order.

(7) The words "but no sum shall be payable for compensation in respect of any future loss of fees consequent upon such transfer" at the end of subsection (3) of section twenty-three of the Act of 1897 are hereby repealed.

Miscellaneous Provisions.

Fee orders, and accounts.

184.—(1) The Lord Chancellor, with the consent of the Treasury, may, by order, from time to time provide for the manner in which the money advanced for the acquisition of the site and the erection of new offices at the registry (so far as not already provided for by the existing sinking fund) shall be repaid, secured, or otherwise provided for; and also for the manner in which accounts of receipts and expenditure, as between the several departments of the Land Registry, are to be kept.

(2) Specially reduced fees may be authorised to be charged on the registration of title to land wholly acquired for the purpose of being used as a street or for street widening or improvements or when acquired by a Government Department, a local authority, or other statutory body for permanent objects not involving a resale or other disposition.

Land Registry Public De-

185.—(1) The Commissioners of Inland Revenue, other Government Departments, and local authorities may

furnish to the registrar (on his request) such particulars and information in regard to land and charges, and the registrar may in like manner furnish to the Commissioners of Inland Revenue, other Government Departments, and local authorities (on their request) such particulars and information as they are respectively by law entitled to require owners of property to furnish to them direct. partments and meaning of "Chief Land Registrar."

(2) The registrar shall be known and shall be referred to in all proceedings as the "Chief Land Registrar."

186.—(1) The remuneration of solicitors in conveyancing and other non-contentious business under the Acts, shall from time to time be prescribed and regulated by general orders made by the committee in England constituted or nominated under section two of the Solicitors Remuneration Act, 1881; provided that the Chief Land Registrar shall, for the purposes aforesaid, be an additional member of that committee. Remuneration of solicitors. 44 & 45 Vict. c. 44.

(2) The provisions of the last-mentioned Act shall apply to any general order made under this section.

(3) Subsection (4) of section one hundred and eleven of the Act of 1875 is hereby repealed.

187.—(1) In this Part of this Act "the Act of 1875" and "the Act of 1897" mean respectively the Land Transfer Acts, 1875 and 1897; and "the Acts" mean the Acts of 1875 and 1897 and this Part of this Act. Short titles; extent.

(2) This Part of this Act shall be construed as one with the Acts of 1875 and 1897, and may be cited with those Acts as the Land Transfer Acts, 1875 to 1922.

(3) The Acts apply to land of every tenure, including land, subject or not to manorial incidents, enfranchised by Part V. of this Act.

PART XI.

GENERAL PROVISIONS.

188. In this Act unless a contrary intention appears— General definitions and jurisdiction of the court.

(1) "Land" includes land of any tenure, and mines and minerals, buildings or parts (whether the

division is horizontal, vertical or otherwise) of buildings and other corporeal hereditaments; also a manor, an advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land; but not an undivided share in land; and "mines and minerals" include any strata or seam of minerals or substances in or under any land, and powers of working and getting the same but not an undivided share thereof;

(2) "Registered land" means land registered under the Land Transfer Acts;

(3) "Possession" includes receipt of rents and profits or the right to receive the same, if any; and "income" includes rents and profits;

(4) "Will" includes codicil;

(5) "Rent" includes a rent service or a rentcharge, or other rent, toll, duty, royalty, or annual or periodical payment, in money, or money's worth, issuing out of or charged upon land, but does not include mortgage interest;

(6) "Court" means the High Court of Justice, and also the Court of Chancery of the County Palatine of Lancaster or Durham, or the county court, where those courts respectively have jurisdiction; and all matters within the jurisdiction of the High Court under this Act shall, subject to the Acts regulating the court, be assigned to the Chancery Division of the court; and every application to the court under this Act shall, except where it is otherwise expressed and subject to any rules of court to the contrary, be by summons at chambers, and the court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges and expenses of all or any of the parties to any application;

(7) "Property" includes any thing in action, and any interest in real or personal property, and "notice" includes constructive notice;

(8) In reference to any estate, right, or interest the "person able to dispose thereof on a sale" means the person (including a mortgagee whose power of sale has arisen) who is able on a sale to convey the same to a purchaser free from incumbrances and includes the other persons (if any) whose concurrence or consent, for the purpose of giving a receipt for the purchase money or conveying any estate or interest or consenting to the sale, is necessary for the completion of the sale;

(9) "The Land Transfer Acts" means the Land Transfer Acts, 1875 and 1897, and includes any Act consolidating or amending the same, including this Act; and "Land Registrar" means the registrar under those Acts:

(10) "Gazette" means the London Gazette;

(11) "The Limitation Acts" mean the Real Property Limitation Acts, 1833, 1837, and 1874; and the "Statutes of Distribution" mean sections five, six, and seven of chapter ten of the Act passed in the twenty-second and twenty-third years of the reign of King Charles the Second (the Statute of Distribution), sections five and seven of chapter seventeen of the Act passed in the first year of the reign of King James the Second, and the Executors Act, 1830;

(12) A "term of years absolute" means a term of years (taking effect either in possession or in reversion, but if created after the commencement of this Act then taking effect in possession within twenty-one years after the creation thereof where so required by this Act) with or without impeachment for waste, subject or not to another legal estate and either certain or liable to determination by notice, re-entry, operation of law, or by a provision for cesser on redemption, or in any other event (other than the dropping of a life, or the determination of a determinable life interest), but does not include any term of years determinable with life or lives or with the cesser of a determinable life interest; and in this definition the

expression "term of years" includes a term for less than a year, or for a year or years and a fraction of a year or from year to year;

(13) "Legal estates" mean the estates and interests in land (subsisting or created at law) which are by this Act authorised to subsist or to be created at law; "equitable interests" mean all the other interests and charges in or over land or in the proceeds of sale thereof; an equitable interest "capable of subsisting at law" means such as could validly subsist or be created as a legal estate under this Act; references to an equitable interest or power being protected by a settlement include every case where, by reason of the subsistence of an equitable interest or power, the land remains settled land or is deemed to be settled land; and "estate owner" means the owner of a legal estate, but an infant is not capable of being an estate owner;

(14) "Legal powers" mean the powers vested in a chargee by way of legal mortgage or in an estate owner under which a legal estate can be transferred or created; and "equitable powers" mean all the powers (under which equitable interests or powers only can be transferred or created) in or over land which are not legal powers;

(15) "Instrument" does not include a statute, unless the statute creates a settlement;

(16) "Conveyance" includes a mortgage, charge by way of legal mortgage, lease, assent, vesting declaration, vesting instrument, disclaimer, release and every other assurance of property or of an interest therein by any instrument, except a will, and "convey" has a corresponding meaning;

(17) "Disposition" includes a "conveyance" also a devise bequest and an appointment of property contained in a will which are to take effect in equity only, and "dispose of" has a corresponding meaning;

(18) "Personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person, and as

regards any liability for the payment of death duties includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the court;

(19) A "defective" includes every person affected by the provisions of section one hundred and sixteen of the Lunacy Act, 1890, as extended by section sixty-four of the Mental Deficiency Act, 1913, and for whose benefit a receiver has been appointed; 53 Vict. c. 5. 3 & 4 Geo. 5. c. 28.

(20) "Death duty" means estate duty, succession duty, legacy duty, and every other duty leviable or payable on any death which occurs after the commencement of this Act;

(21) "Tenant for life of full age" includes a person of full age beneficially interested in the settled land, who has the powers of a tenant for life under the Settled Land Acts;

(22) "Statutory owner" means the trustees of the settlement or other persons who, during a minority, or at any other time when there is no tenant for life of full age, have the powers of a tenant for life under the Settled Land Acts, but does not include the trustees of the settlement, where by virtue of an order of the court or otherwise the trustees have power to convey the settled land in the name of the tenant for life of full age;

(23) "Settled land" has the same meaning as in the Settled Land Acts, and where the settlement consists of more than one instrument, or where any estate, interest, power or charge is by this Act made to take effect as if limited or protected by the settlement, it includes every estate or interest comprised in such compound settlement;

(24) "Settlement" has the same meaning as in the Settled Land Acts, and includes an instrument which under the Settled Land Acts is deemed to be a settlement, and a settlement which is deemed to have been made by any person or to be subsisting for the purposes of those Acts; and

where any such compound settlement as aforesaid exists it includes that settlement; but it only includes a vesting instrument for giving effect thereto where the context so requires;

(25) "The trustees of the settlement" has the same meaning as in the Settled Land Acts, and where any such compound settlement exists it includes the trustees of that settlement;

(26) "The Settled Land Acts" means the Settled Land Acts, 1882 to 1890, and any Act consolidating or amending the same, including this Act;

(27) "Purchaser" means a purchaser in good faith for money or moneys worth and includes a lessee, mortgagee or other person who in good faith acquires an interest in property for money or money's worth; and in reference to a legal estate includes a chargee by way of legal mortgage;

(28) "Mortgagor," "mortgagee," and "mortgage deed" have the same meanings as in the Conveyancing Act, 1881, "mortgage" includes "mortgage deed"; "charge by way of legal mortgage" means a mortgage created by charge under which, by virtue of this Act, the mortgagee is to be treated as an estate owner in like manner as if a mortgage term by demise or subdemise were vested in him; and "right of redemption" includes an option to re-purchase only if the option in effect creates a right of redemption; and "mortgagee" includes a chargee by way of legal mortgage;

(29) In relation to settled land, "vesting deed" or "vesting order" means the instrument whereby the land is conveyed or vested; "vesting assent" means the instrument whereby a personal representative, after the death of a tenant for life of full age or other sole surviving statutory owner, vests the land in the successor in title or other person entitled; "vesting instrument" means a vesting deed, assent or order; and "trust deed" means the instrument or instruments whereby the trusts of the settled land are declared;

(30) "Trust for sale," in relation to land, means an immediate binding trust for sale, with or without a power at discretion to postpone the sale; "trustees for sale" mean the persons (including a personal representative) holding land on trust for sale; and "full power to postpone a sale" means power to postpone in the exercise of a discretion; and "trust corporation" means the public trustee or a corporation either appointed by the court in any particular case to be a trustee or entitled by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee. 6 Edw. 7. c. 55.

(31) "Minister" means the Minister of Agriculture and Fisheries;

(32) References to a child or issue living at the death of any person include a child or issue en ventre sa mère at the death.

189. In this Act, and in particular in Part V., unless the context otherwise requires,— Special definitions applicable to Part V.

"Copyhold land" includes—

(*a*) Land commonly known as customary land or customary freehold land where the freehold is in the lord and not in the customary tenant; and

(*b*) Land of copyhold tenure held for life or lives or for years, whether or not determinable with life, where the tenant has by custom a perpetual right of renewal, subject or not to the fulfilment of any conditions;

(*c*) Land held in free tenure for life or lives or for years, whether or not determinable with life, (but subject to custom) where the tenant has by custom a perpetual right of renewal, subject or not to the fulfilment of any conditions;

"Copyholder in fee" means the person who is admitted in respect of the inheritance;

"Tenant" means the person in whom the enfranchised land is vested by virtue of this Act, and includes the persons deriving title under him;

"Prescribed" means prescribed by regulations made by the Minister;

Other expressions have the same meaning in Part V. of this Act as in the Copyhold Act, 1894, but without prejudice, where applicable, to the general definitions in this Act.

Special definitions applicable to Part VII.

190. In Part VII. of this Act—

(i) "Lessor" means the person for the time being entitled in reversion expectant on the interest demised, or, where the reversion is encumbered, the person having power to accept a surrender of the lease, or underlease;

(ii) "Lessee" and "underlessee" include the persons respectively deriving title under them;

(iii) "A perpetually renewable lease or underlease" means a lease or underlease the holder of which is entitled to enforce (whether or not subject to the fulfilment of any condition) the perpetual renewal thereof, and includes a lease or underlease for a life or lives or for a term of years, whether determinable with life or lives or not, which is perpetually renewable as aforesaid, but does not include copyhold land held for a life or lives or for years, whether or not determinable with life, where the tenant had before the commencement of this Act a right of perpetual renewal subject or not to the fulfilment of any condition;

(iv) "Underlease," unless the context otherwise requires, includes a subterm created out of a derivative leasehold interest.

Short title; commencement; extent.

191.—(1) This Act may be cited as the Law of Property Act, 1922.

(2) This Act shall come into operation on the first day of January, one thousand nine hundred and twenty-five.

(3) This Act (including the repeals therein) shall not extend to Scotland or Ireland.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

PART I.

OUTSTANDING LEGAL ESTATES.

Provisions for discharging or getting in bare outstanding legal estates.

1. If any legal term of years absolute, subsisting at the commencement of this Act, would, if the same had been created out of an estate in fee simple, have been a satisfied term within the meaning of the Satisfied Terms Act, 1845, then that term shall merge in the reversion expectant thereon, and be deemed a satisfied term for the purposes of that Act, and shall cease accordingly.

2. Where at or immediately after the commencement of this Act any owner of a legal estate is entitled, subject only to the payment of the costs of tracing the title and of conveyance, to require any other legal estate to be surrendered, released or conveyed to him, the last-mentioned estate shall (except in the case of a satisfied term) by virtue of this enactment be extinguished or shall vest in manner hereinafter provided.

3. Where at or immediately after the commencement of this Act any person is entitled, subject only to the payment of the costs of tracing the title and of conveyance, to require any legal estate to be conveyed to or otherwise vested in him, the same shall, by virtue of this enactment, vest in manner hereinafter provided. And this provision shall (without prejudice to any claim in respect of fines, fees, and other customary payments) apply to a person who, under a surrender or any disposition having the effect of a surrender, or under a covenant to surrender or otherwise, was, immediately before the commencement of this Act, entitled to require a legal customary estate of inheritance to be vested in him.

4. Any person (not otherwise entitled under the foregoing provisions to have a legal estate vested in him) who, at or immediately after the commencement of this Act, is entitled to an equitable interest capable of subsisting at law which has priority over any legal estate in the same land, shall be deemed to be entitled for the foregoing purposes to require that legal estate to be vested in him for an interest not exceeding in duration the equitable interest, and this enactment shall apply so as to give legal effect to any derivative equitable interests capable of subsisting at law which cannot be overreached by virtue of a subsisting trust for sale or a settlement.

5. Any legal estate acquired by virtue of this enactment shall be held upon the trusts and subject to the powers, provisions, rents, covenants, conditions, rights of redemption (as respects terms of years absolute) and other rights, burdens and obligations (if any) corresponding to the limitations, trusts, powers, provisions, rents, covenants, conditions, rights of redemption and other rights, burdens, and obligations (if any) to, upon and subject to which the equitable interest (if any) which is extinguished by the acquisition of the legal estate would have been held immediately after the commencement of this Act, if it had not been extinguished, or if no interest is extinguished then upon or subject to which the estate acquired ought to go or be held.

6. Under the provisions of this enactment the legal estate affected shall vest:—

(*a*) Where at the commencement of this Act there is a mortgage (not being an equitable charge unsecured by any estate), so as to give legal effect by way of demise or subdemise to the mortgage in accordance with Part I. of this Act;

(*b*) Where the land is at the commencement or by virtue of this Act subject or is made subject to a trust for sale, in the trustees for sale (including personal representatives holding land on trust for sale) but subject to any mortgage term subsisting or created by this Act;

(*c*) Where at the commencement or by virtue of this Act the land is settled, in the personal representative (if any) in whom the land may be vested or in the tenant for life of full age or statutory owner (entitled to require a vesting deed to be executed in his favour) as the case may require, but subject to any mortgage term subsisting or created by this Act;

(*d*) In any case to which paragraphs (*b*) and (*c*) do not apply in the person of full age who, immediately after the commencement of this Act, would have been entitled (subject to the payment of costs and any customary payments) to require the legal estate to be vested in him, but subject to any mortgage term subsisting or created by this Act.

7. If and when any person is registered as proprietor of land in a compulsory area after the commencement of this Act, then this enactment shall apply to any legal estate in the land expressed to be conveyed or created in favour of a purchaser or lessee before the commencement of this Act which failed to pass or to be created by reason of the omission of the purchaser or lessee to be registered as proprietor of the land under the Land

Transfer Acts 1875 and 1897 and shall operate to vest that legal estate in the person so registered as proprietor on his registration, but subject to any mortgage term subsisting or created by this Act.

8. Nothing in this Part of this schedule shall operate—

(*a*) To vest in a mortgagee of a term of years absolute any nominal leasehold reversion which is held in trust for him subject to redemption; or

(*b*) To vest in a mortgagee any legal estate, except a term of years absolute; or

(*c*) To vest any legal estate in a person for an undivided share; or

(*d*) To vest any legal estate in an infant; or

(*e*) To affect prejudicially the priority of any mortgage or other incumbrance subsisting at the commencement of this Act; or

(*f*) To render invalid any limitation or trust which would have been capable of taking effect as an equitable limitation or trust; or

(*g*) To vest in a purchaser (save as provided in the last preceding clause) or his personal representatives any legal estate which he has contracted to acquire and in regard to which a contract (including an agreement to create a legal mortgage) is pending at the commencement of this Act, although the consideration may have been paid or satisfied and the title accepted, or to render unnecessary the conveyance of such estate.

9. No stamp duty shall become payable by reason only of any vesting surrender or release effected by this enactment.

PART II. Section 4.

ENFORCEMENT OF EQUITABLE INTERESTS AND POWERS.

(1) All equitable interests and powers in or over land (whether created before or after any disposition on trust for sale or any vesting instrument affecting the legal estate) shall be enforceable against the personal representative (but subject to his rights and powers for purposes of administration), trustees for sale, tenant for life of full age, or statutory owner of the legal estate affected in manner following (that is to say):—

(i) The trustees for sale (but in the case of personal representatives without prejudice to their rights and powers for purposes of administration) shall stand possessed of the net proceeds of sale after payment

of costs and of the net rents and profits of the land until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the same according to their respective priorities:

(ii) Where, by reason of the exercise of any equitable power or under any trust affecting the proceeds of sale, any principal sum is required to be raised, or any person of full age becomes entitled to require a legal estate in the land to be vested in him in priority to the trust for sale, then, unless the claim is satisfied out of the net proceeds of sale, the trustees for sale shall (if so requested in writing) be bound to transfer or create such legal estates, to take effect in priority to the trust for sale, as may be required for raising the money (by way of demise or subdemise, or by charge by way of legal mortgage) or for giving legal effect to the rights of the person so entitled:

Provided that, if the proceeds of sale are held in trust for persons of full age in undivided shares absolutely (free from incumbrances affecting undivided shares), those persons shall not be entitled to require the land to be conveyed to them in undivided shares, but may (subject to legal effect being given by demise or subdemise, or by charge by way of legal mortgage, to incumbrances affecting the entirety) require the same to be vested in any of them (not exceeding four) as joint tenants on trust for sale; and if the conveyance purports to transfer the land to any of them in undivided shares or to more than four such persons, it shall operate only as a transfer to them or (if more than four) to the four first named therein as joint tenants on trust for sale with full power to postpone the sale:

(iii) The tenant for life of full age or statutory owner (including a personal representative where the settled land is vested in him, but without prejudice to his rights and powers for purposes of administration) shall stand possessed of the settled land and the income thereof upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the settled land or the income thereof according to their respective priorities:

(iv) Where, by virtue of any trust or by reason of the exercise of an equitable power affecting the settled land, any principal sum is required to be raised, or any person of full age becomes entitled to require a legal estate in the settled land to be vested in him in priority to the settlement, then (unless where a principal sum is raiseable the claim is discharged out of capital money) the tenant for life of full age, statutory owner, or personal representative in whom the settled land is vested shall be bound (if so requested in writing) to transfer or create such legal estates, to take effect in priority to the settlement, as may be required for raising the money (by demise or subdemise, or by charge by way of legal mortgage) or for giving effect to the rights of the person so entitled:

Provided that, so long as the settlement remains subsisting, no legal estate shall be transferred or created for the purposes aforesaid except to satisfy or give effect to a claim which (by reason of money being actually raised, or of an exercise of an equitable power having priority to all the limitations or trusts of the settlement) ought no longer to be capable of being overreached under the powers of the Settled Land Acts.

(2) If the legal estate is not vested in personal representatives or in trustees for sale, and there are no trustees of a settlement to whom capital money can be lawfully paid, then the estate owner shall be liable in equity to give effect to the equitable interests and powers affecting his estate of which he has notice according to their respective priorities, and, if any capital money arises under the transaction, shall not, by virtue of this Act, be entitled to overreach the same in favour of a purchaser with notice thereof, until such trustees as aforesaid are appointed, without the concurrence of the persons interested. This provision shall not affect the priority or powers of a mortgagee by demise or subdemise, or a chargee by way of legal mortgage.

(3) Legal effect may be given, by means of a mortgage by demise or subdemise, or a charge by way of legal mortgage, to an agreement for a mortgage a charge or lien (whether or not arising by operation of law) if the agreement, charge or lien ought, in accordance with the foregoing provisions, to have priority, over the trust for sale or the settlement.

(4) Where, by reason of a right of reverter, statutory or otherwise, or an equitable right of entry taking effect or otherwise, a person becomes entitled to require a legal estate to be vested in him, then and in any such case the estate owner whose estate is affected shall be liable in equity to convey or create such legal estates as the case may require.

(5) If any question arises whether any and what legal estate ought to be transferred or created as aforesaid, any person interested may apply to the court for directions in the manner provided by this Act.

(6) If the trustees for sale, tenant for life of full age, statutory owner or personal representatives or other estate owners refuse or neglect for one month after demand to transfer or create any such legal estate, or if by reason of their being out of the United Kingdom, or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the transaction cannot otherwise be effected, or cannot be effected without undue delay or expense, the court may, on the application of any person interested, make a vesting order transferring or creating a legal estate in the manner provided by this Act.

Section 9.

SECOND SCHEDULE.

PROVISIONS AS TO MORTGAGES.

Existing freehold mortgages to take effect by way of demise.

1.—(1) All land vested in a first or only mortgagee for an estate in fee simple, whether legal or equitable, shall, from and after the commencement of this Act, vest in the first or only mortgagee for a term of three thousand years from such commencement, without impeachment of waste, but subject to a provision for cesser corresponding to the right of redemption which, at such commencement, was subsisting with respect to the fee simple.

(2) All land vested in a second or subsequent mortgagee for an estate in fee simple (whether legal or equitable) shall, from and after the commencement of this Act, vest in the second or subsequent mortgagee for a term one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee, without impeachment of waste, but subject to the term or terms vested in such first or other prior mortgagee and subject to a provision for cesser corresponding to the right of redemption which, at such commencement, was subsisting with respect to the fee simple.

(3) The estate in fee simple which, at the commencement of this Act, was vested in any such mortgagee shall, from and after such commencement, vest in the mortgagor or tenant for life of full age, statutory owner, trustee for sale, personal representative, or other person of full age who,

if all money owing on the security of the mortgage and all other mortgages or charges (if any) had been discharged immediately after the commencement of this Act, would have been entitled to have the fee simple conveyed to him, but subject to any mortgage term created by this section or otherwise and to the money secured by any such mortgage or charge.

(4) If a sub-mortgage (by conveyance of the fee simple) is subsisting at the commencement of this Act, the principal mortgagee shall take the principal term created by subsections (1) or (2) of this section (as the case may require) and the sub-mortgagee shall take a derivative term less by one day than the term so created, without impeachment of waste, subject to a provision for cesser corresponding to the right of redemption subsisting under the sub-mortgage.

(5) This section applies to land enfranchised by this Act as well as to land which was freehold before the commencement of this Act, and whether or not the land is registered under the Land Transfer Acts, or the mortgage is made by way of trust for sale or otherwise.

(6) Any mortgage to which this section applies may, by a declaration in writing to that effect by the mortgagee, be converted into a charge by way of legal mortgage, in which case the mortgage term shall be extinguished in the inheritance and the mortgagee shall have the same protection, powers, and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if the mortgage term had remained subsisting. The power conferred by this subsection may be exercised by a mortgagee notwithstanding that he is a trustee or personal representative.

(7) Nothing in this section or in any such declaration shall affect the priority of any mortgagee or his right to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage.

(8) This section does not apply unless a right of redemption is subsisting at the commencement of this Act.

Existing leasehold mortgages to take effect by sub-demise.

2.—(1) All leasehold land vested in a first or only mortgagee by way of assignment of a term of years absolute shall, from and after the commencement of this Act, vest in the first or only mortgagee for a term equal to the term assigned by the mortgage, less the last ten days thereof, but subject to a provision for cesser corresponding to the right of redemption which at such commencement was subsisting with respect to the term assigned.

(2) All leasehold land vested in a second or subsequent mortgagee by way of assignment of a term of years absolute (whether legal or equitable) shall, from and after the commencement of this Act, vest in the second or subsequent mortgagee for a term one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee if the length of the last-mentioned term permits, and in any case for a term less by one day at least than the term assigned by the mortgage, but subject to the term or terms vested in such first or other prior mortgagee, and subject to a provision for cesser corresponding to the right of redemption which, at the commencement of this Act, was subsisting with respect to the term assigned by the mortgage.

(3) The term of years absolute which was assigned by any such mortgage shall, from and after the commencement of this Act, vest in the mortgagor or tenant for life of full age, statutory owner, trustee for sale, personal representative, or other person of full age who, if all the money owing on the security of the mortgage and all other mortgages or charges (if any) had been discharged immediately after the commencement of this Act, would have been entitled to have the term assigned or surrendered to him, but subject to any derivative mortgage term created by this section or otherwise and to the money secured by any such mortgage or charge.

(4) If a sub-mortgage (by assignment of a term) is subsisting at the commencement of this Act, the principal mortgagee shall take the principal derivative term created by subsections (1) or (2) of this section or the derivative term created by his mortgage (as the case may require), and the sub-mortgagee shall take a derivative term less by one day than the term so vested in the principal mortgagee, subject to a provision for cesser corresponding to the right of redemption subsisting under the sub-mortgage.

(5) This section applies to perpetually renewable leaseholds, and to leaseholds for lives, which are by this Act converted into long terms, with the following variations, namely:—

(*a*) The term to be taken by a first or only mortgagee shall be ten days less than the term created by Part VII. of this Act:

(*b*) The term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee if the length of the last-mentioned term permits, and in any case for a term less by one day at least than the term created by Part VII. of this Act:

(c) The term created by Part VII. of this Act shall, from and after the commencement of this Act, vest in the mortgagor or tenant for life of full age, statutory owner, trustee for sale, personal representative, or other person of full age who, if all the money owing on the security of the mortgage and all other mortgages or charges (if any) had been discharged immediately after the commencement of this Act, would have been entitled to have the term assigned or surrendered to him, but subject to any derivative term created by this section or otherwise and to the money secured by any such mortgage or charge.

(6) This section applies whether or not the leasehold land is registered under the Land Transfer Acts or the mortgage is made by way of trust for sale or otherwise.

(7) Any mortgage to which this section applies may, by a declaration in writing to that effect by the mortgagee, be converted into a charge by way of legal mortgage, in which case the mortgage term shall be extinguished in the head term, and the mortgagee shall have the same protection, powers, and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if the mortgage term had remained subsisting. The power conferred by this subsection may be exercised by a mortgagee notwithstanding that he is a trustee or personal representative.

(8) Nothing in this section or in any such declaration shall affect the priority of any mortgagee or his right to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage, but this section does not apply unless a right of redemption is subsisting at the commencement of this Act.

Mode of mortgaging freeholds.

3.—(1) After the commencement of this Act, a legal mortgage of an estate in fee simple shall only be capable of being effected either by a demise for a term of years absolute, subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage, in which case the mortgagee shall have the same protection, powers, and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if a mortgage term for three thousand years without impeachment for waste had been thereby created in favour of the mortgagee.

(2) Any purported conveyance of an estate in fee simple by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a demise of the land to the mortgagee for a term of

years absolute, without impeachment for waste, but subject to cesser on redemption in manner following, namely :—

(*a*) A first or only mortgagee shall take a term of three thousand years from the date of the mortgage :

(*b*) A second or subsequent mortgagee shall take a term (commencing from the date of the mortgage) one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee :

And, in this subsection, any such purported conveyance as aforesaid includes an absolute conveyance with a deed of defeasance and any other assurance which (but for this subsection) would operate in effect to vest the fee simple in a mortgagee subject to redemption.

(3) But where the mortgage includes fixtures or chattels personal the statutory power of sale and the rights to foreclose and take possession shall extend to the absolute or other interest therein affected by the charge.

(4) This section applies whether or not the land is registered under the Land Transfer Acts or the mortgage is expressed to be made by way of trust for sale or otherwise ; and a first mortgagee shall have the same right to possession of documents as if his security included the fee simple.

(5) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage or to lend money on mortgage of an estate in fee simple shall be construed as a power to mortgage the same for a term of years absolute, without impeachment for waste, or by a charge by way of legal mortgage or to lend on such security.

(6) Nothing in this Act shall affect the rule of law that a legal term may be created to take effect in reversion expectant on a longer term.

Mode of mortgaging leaseholds.

4.—(1) After the commencement of this Act, a legal mortgage of a term of years absolute shall only be capable of being effected either by a subdemise for a term of years absolute, less by one day at least than the term vested in the mortgagor, and subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage, in which case the mortgagee shall have the same protection, powers, and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if a subterm less by one day than the term vested in the mortgagor had been thereby created in favour of the mortgagee. And where a licence to subdemise by way of mortgage is required, such licence shall not be unreasonably refused.

(2) Any purported assignment of a term of years absolute by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a subdemise of the leasehold land to the mortgagee for a term of years absolute, but subject to cesser on redemption, in manner following, namely:—

(*a*) The term to be taken by a first or only mortgagee shall be ten days less than the term expressed to be assigned:

(*b*) The term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee if the length of the last mentioned term permits, and in any case for a term less by one day at least than the term expressed to be assigned:

And, in this subsection, any such purported assignment as aforesaid includes an absolute assignment with a deed of defeasance and any other assurance which (but for this subsection) would operate in effect to vest the term of the mortgagor in a mortgagee subject to redemption.

(3) But where the mortgage includes fixtures or chattels personal the statutory power of sale and the rights to foreclose and take possession shall extend to the absolute or other interest therein affected by the charge.

(4) This section applies whether or not the land is registered under the Land Transfer Acts, or the mortgage is made by way of sub-mortgage of a term of years absolute, or is expressed to be by way of trust for sale or otherwise, and a first mortgagee shall have the same right to possession of documents as if his security had been effected by assignment.

(5) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage or to lend money on mortgage of a term of years absolute by way of assignment shall be construed as a power to mortgage the same by subdemise for a term of years absolute or by a charge by way of legal mortgage, or to lend on such security.

Realisation of freehold mortgages.

5.—(1) Where a mortgagee of a term of years absolute, limited out of an estate in fee simple or a chargee by way of legal mortgage affecting an estate in fee simple sells under his statutory or express power of sale, the conveyance by him (made after the commencement of this Act) shall operate to vest the fee simple in the land conveyed in the purchaser (subject to any mortgage term or charge by way of legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured), and thereupon the mortgage

term (if any) and any subsequent mortgage term or charge by way of legal mortgage shall merge or be extinguished as respects the land conveyed; and such conveyance may, as respects the fee simple, be made in the name of the estate owner in whom it is vested.

(2) Where any such mortgagee obtains an order for foreclosure absolute, the order shall operate to vest the fee simple in him (subject to any mortgage term or charge by way of legal mortgage having priority to the mortgage in right of which the foreclosure is obtained and to any money thereby secured), and thereupon the mortgage term (if any) shall thereby be enlarged into the fee simple, and any subsequent mortgage term or charge by way of legal mortgage bound by the order shall thereupon be extinguished.

(3) Where any such mortgagee acquires a title under the Limitation Acts, he, or the persons deriving title under him, may enlarge the mortgage term into a fee simple under the provisions of section sixty-five of the Conveyancing Act, 1881, discharged from any mortgage term or charge by way of legal mortgage affected by the title so acquired, or in the case of a chargee by way of legal mortgage may by deed declare that the fee simple is vested in him discharged as aforesaid, and the same shall vest accordingly.

(4) In the case of a sub-mortgage by subdemise of a long term (less a nominal period) itself limited out of an estate in fee simple, the foregoing provisions of this section shall operate as if the derivative term (if any) created by the sub-mortgage had been limited out of the fee simple, and so as to enlarge the principal term and extinguish the derivative term created by the sub-mortgage as aforesaid.

(5) This section applies whether the mortgage was created before or after the commencement of this Act but shall not operate to confer a better title to the fee simple than would have been acquired if the same had been conveyed by the mortgage (being a valid mortgage) and the restrictions imposed by this Act in regard to the effect and creation of mortgages were not in force, and all prior mortgages (if any) had been created by demise or by charge by way of legal mortgage.

Realisation of leasehold mortgages.

6.—(1) Where a mortgagee of a term of years absolute limited out of another term of years absolute or a chargee by way of legal mortgage affecting any such term sells under his statutory or express power of sale, the conveyance by him (made after the commencement of this Act) shall operate to convey not only the mortgage term, if any, but also (unless expressly excepted) the leasehold reversion affected by the mortgage to the purchaser (subject to any mortgage term or charge by way of legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured) and

the mortgage term, if any, and any subsequent mortgage term or charge by way of legal mortgage shall, subject to any express provision to the contrary contained in the conveyance, merge in such leasehold reversion or be extinguished therein; and such conveyance may, as respects the leasehold reversion, be made in the name of the estate owner in whom it is vested. And where a licence to assign is required on a sale by a mortgagee, such licence shall not be unreasonably refused.

(2) Where any such mortgagee or chargee by way of legal mortgage obtains an order for foreclosure absolute, the order shall (unless it otherwise provides) operate (without giving rise to a forfeiture for want of a licence to assign) to vest the leasehold reversion affected by the mortgage and any subsequent mortgage term in him, and thereupon the mortgage term and any subsequent mortgage term or charge by way of legal mortgage bound by the order shall (subject to any express provision to the contrary contained in the order) merge in such leasehold reversion or be extinguished therein.

(3) Where any such mortgagee or chargee by way of legal mortgage acquires a title under the Limitation Acts, he, or the persons deriving title under him, may by deed declare that the leasehold reversion affected by the mortgage and any subsequent mortgage term affected by the title so acquired shall vest in him, free from any right of redemption which is barred, and the same shall (without giving rise to a forfeiture for want of a licence to assign) vest accordingly, and thereupon the mortgage term, if any, and any other mortgage term or charge by way of legal mortgage affected by the title so acquired shall (subject to any express provision to the contrary contained in the deed) merge in such leasehold reversion or be extinguished therein.

(4) In the case of a sub-mortgage by subdemise of a term (less a nominal period) itself limited out of a leasehold reversion, the foregoing provisions of this section shall operate as if the derivative term created by the sub-mortgage had been limited out of the leasehold reversion and so as (subject as aforesaid) to merge the principal mortgage term therein as well as the derivative term created by the sub-mortgage.

(5) This section shall take effect without prejudice to any incumbrance or trust affecting the leasehold reversion which has priority over the mortgage in right of which the sale, foreclosure, or title is made or acquired, and shall apply whether the mortgage is executed before or after the commencement of this Act, but shall not apply where the mortgage term does not comprise the whole of the land included in the leasehold reversion unless the rent (if any) payable in respect of that reversion has been apportioned as respects the

land affected, or the rent is of no money value, or no rent is reserved, and unless the lessees covenants and conditions (if any) have been apportioned, either expressly or by implication, as respects the land affected.

Realisation of equitable charges by the court.

7.—(1) Where an order for sale is made by the court in reference to an equitable charge on land (not secured by a legal term of years absolute or by a charge by way of legal mortgage) the court may, in favour of a purchaser, make a vesting order conveying the land or creating a legal term of years absolute therein, or may appoint a person to convey the land or create a legal term of years absolute, as the case may require, in like manner as if the charge had been created by demise or subdemise or by a charge by way of legal mortgage pursuant to this Act, but without prejudice to any incumbrance having priority to the charge unless the incumbrancer consents to the sale.

(2) This section applies to charges and liens made or arising before or after the commencement of this Act, but not to charges which have been over-ridden by reason of no land charge having been registered or otherwise, under the powers conferred by this Act before a lis pendens has been registered in respect of the proceedings.

Consolidation, tacking and further advances.

8.—(1) Nothing in Part I. of this Act shall, in reference to mortgages, affect any right of consolidation subsisting at the commencement of this Act or render inoperative a stipulation, in relation to any mortgage made before or after such commencement, that section seventeen of the Conveyancing Act, 1881, shall not apply thereto.

(2) Nothing in Part I. of this Act shall affect any priority acquired before the commencement of this Act by tacking, or in respect of further advances made, without notice of a subsequent incumbrance or by arrangement with the subsequent incumbrancer.

(3) After the commencement of this Act, the right of a prior mortgagee to make further advances to rank in priority to subsequent mortgages (whether legal or equitable) without an arrangement being made with the subsequent mortgagees, shall depend on whether he had notice of the subsequent mortgages at the time when the advance was made by him.

(4) In reference to the making of further advances after the commencement of this Act a mortgagee shall not be deemed to have notice of an incumbrance merely by reason that it was registered as a land charge or in a local deeds registry, if it was not so registered at the date of the original advance or when the last search (if any) was made, which last happened,

but in other respects the registration in a deeds registry shall operate as notice of the incumbrance as respects land within the jurisdiction of the local registry.

(5) This section applies to mortgages of freehold and leasehold land made before or after the commencement of this Act, but not to charges registered under the Land Transfer Acts.

As to taking possession and as to undivided shares and the cesser of mortgage terms.

9.—(1) Nothing in Part I. of this Act shall affect prejudicially the right of a mortgagee of land (whether or not his charge is secured by a legal term of years absolute) to take possession of the land, or to appoint a receiver of the income thereof.

(2) A mortgagee of an undivided share in land shall have the same power to sell his share in the proceeds of sale of the land and in the rents and profits thereof until sale, as, independently of Part I. of this Act, he would have had in regard to the share in the land; and shall also have a right to require the trustees for sale in whom the land is vested to account to him for the income attributable to that share or to appoint a receiver to receive the same from such trustees corresponding to the right which, independently of Part I. of this Act, he would have had to take possession or to appoint a receiver of the rents and profits attributable to the same share.

(3) Without prejudice to the right of a tenant for life or other person having only a limited interest in the equity of redemption to require a mortgage to be kept alive by transfer or otherwise, a mortgage term shall, after the money secured by the mortgage has been discharged, become a satisfied term and shall cease.

THIRD SCHEDULE.

Section 10.

PROVISIONS AS TO UNDIVIDED SHARES.

Vesting of land held in undivided shares in trustees on trust for sale, and repeal of the Partition Acts.

1. Where, at the commencement of this Act, land is held at law or in equity in undivided shares vested in possession the following provisions shall apply:—

(1) If the entirety of the land is vested in trustees or personal representatives (subject or not to incumbrances affecting the entirety or an undivided share) in trust for persons entitled in undivided shares, it shall be held by, or vest free from incumbrances

affecting undivided shares or not secured by a legal term of years absolute (created by this Act or otherwise) or by a charge by way of legal mortgage in such trustees or personal representatives (but in the latter case subject to their rights and powers for purposes of administration) upon trust to sell the same or any part thereof (with full power to postpone the sale) and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings upon such trusts, and subject to such powers and provisions as may be requisite for giving effect to the rights of the persons (including incumbrancers of undivided shares or whose incumbrance is not secured by a legal term of years absolute or by a charge by way of legal mortgage) interested in the shares, which trusts, powers, and provisions (including the trust for sale) are in this section referred to as "the statutory trusts":

(2) If the entirety of the land (not being settled land) is vested absolutely and beneficially in not more than four persons of full age entitled to the same in undivided shares (subject or not to incumbrances affecting the entirety but free from incumbrances affecting undivided shares), it shall, by virtue of this Act, vest in them as joint tenants upon the statutory trusts:

(3) If the entirety of the land is settled land (subject or not to incumbrances affecting the entirety or an undivided share) held under one and the same settlement, it shall, by virtue of this Act, vest, free from incumbrances affecting undivided shares or not secured by a legal term of years absolute (created by this Act or otherwise) or by a charge by way of legal mortgage, in the trustees (if any) of the settlement as joint tenants upon the statutory trusts:

Provided that—

(i) If there are no such trustees, then, pending their appointment, the land shall, by virtue of this Act, vest (free as aforesaid) in the Public Trustee upon the statutory trusts;

(ii) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of persons interested to the extent of more than an undivided half of the land or the income thereof;

(iii) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent;

(iv) If, before the Public Trustee has accepted the trust, trustees of the settlement are appointed, the land shall, by virtue of this Act, vest (free as aforesaid) in them as joint tenants upon the statutory trusts;

(v) If, before the Public Trustee has accepted the trust, the persons having power to appoint new trustees are unwilling to make an appointment, or if the person having power to apply to the court under section thirty-eight of the Settled Land Act, 1882, neglects to make the application for at least three months after being requested in writing so to do, or if the tenants for life of the undivided shares are unable to agree, then any person interested under the settlement may apply to the court under section thirty-eight aforesaid:

(4) In any other case to which the foregoing provisions of this section do not apply, the entirety of the land shall vest (free as aforesaid) in the Public Trustee upon the statutory trusts:

Provided that—

(i) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of the persons interested to the extent of more than an undivided half of the land or the income thereof;

(ii) After the Public Trustee had been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent;

(iii) Any persons interested in more than an undivided half of the land or the income thereof may appoint new trustees in the place of the Public Trustee with the consent of any incumbrancers of undivided shares (but so that a purchaser shall not be concerned to see whether any such consent has been given) and vest the land in the persons so appointed (free as aforesaid) upon the statutory trusts; or such persons may (without such consent as aforesaid), at any time, whether or not the Public Trustee has accepted

the trust, apply to the court for the appointment of trustees of the land, and the court may make such order as it thinks fit, and if thereby trustees of the land are appointed, the same shall, by virtue of this Act, vest (free as aforesaid) in the trustees as joint tenants upon the statutory trusts;

(iv) If the persons interested to the extent of more than an undivided half of the land or the income thereof do not either request the Public Trustee to act, or (whether he refuses to act or has not been requested to act) apply to the court for the appointment of trustees in his place, within three months from the time when they shall have been requested in writing by any person interested so to do, then and in any such case any person interested may apply to the court for the appointment of trustees in the place of the Public Trustee, and for an order vesting the land in such trustees (free as aforesaid) upon the statutory trusts, and the court may make such order as it thinks fit;

(5) The court or the Public Trustee may act on primâ facie evidence given by affidavit or by statutory declaration as respects the undivided shares without investigating the title to the land:

(6) Where at the commencement of this Act the entirety of the land is vested in undivided shares in the same mortgagees and the rights of redemption are the same as might have been subsisting if the entirety had been mortgaged by an owner before the undivided shares were created, then the land shall, by virtue of this Act, vest in the mortgagees as joint tenants for a legal term of years absolute (in accordance with this Act) subject to cesser on redemption by the trustees for sale in whom the equity of redemption is vested by this Act, and for the purposes of this section the mortgage shall be deemed an incumbrance affecting the entirety:

(7) This section does not prejudice incumbrancers whose incumbrances affect the entirety of the land at the commencement of this Act, but the land shall vest in them for legal terms of years absolute in accordance with this Act in priority to the statutory trusts; and in this section "incumbrance" does not include land tax, tithe rentcharge, or any similar charge on the land not created by an instrument:

(8) The trust for sale and powers of management vested in the persons who hold the entirety of the land on trust for sale shall (save as hereinafter mentioned) be exerciseable with the consent of any incumbrancer (of

full age) affected whose incumbrance is divested by this section, but a purchaser shall not be concerned to see or inquire whether any such consent has been given nor, where the incumbrancer is not in possession, shall any such consent be required if, independently of Part I. of this Act, the transaction would have been binding on him, had the same been effected by the mortgagor:

(9) This section does not apply to land in respect of which a subsisting contract for sale (whether made under an order in a partition action or by or on behalf of all the tenants in common or coparceners) is in force at the commencement of this Act if the contract is completed in due course, nor to land in respect of which a partition action is pending at such commencement if an order for a partition or sale is subsequently made in such action:

(10) The Partition Acts, 1868 and 1876, are hereby repealed without prejudice to any proceedings thereunder commenced before the commencement of this Act, and to the jurisdiction of the court to make any orders in reference thereto, and subject to the following provisions, namely:— 31 & 32 Vict. c. 40. 39 & 40 Vict. c. 17.

(i) In any proceedings, and at any stage thereof, any person or persons interested individually or collectively to the extent of one half or upwards in the land to which the proceedings relate, may apply to the court for an order staying such proceedings;

(ii) The court may upon such application make an order staying the proceedings as regards the whole or any part, not being an undivided share, of the land;

(iii) As from the date of such order the said Acts shall cease to apply to the land affected by the order and the provisions of this Act shall apply to such last-mentioned land;

(iv) The court may by such order appoint trustees of the land and the same shall by virtue of this Act vest (free as aforesaid) in the trustees as joint tenants upon the statutory trusts;

(v) The court may order that the costs of the proceedings and of the application shall be raised by the trustees, by mortgage of the land or any part thereof (by demise or subdemise or by charge by way of legal mortgage), and paid either wholly or partially into court or to the trustees;

(vi) The court may act on such evidence as appears to be sufficient, without investigating the title to the land.

Undivided shares (after this Act) to take effect behind a trust for sale of the land.

2.—(1) If and when, after the commencement of this Act, settled land is held in trust for persons entitled in possession under a settlement in undivided shares, the trustees of the settlement may require the tenant for life of full age or other statutory owner, or the personal representative in whom the land is vested, to convey the settled land to them (if not already vested in them), or assent to the same vesting in them as joint tenants at the cost of the trust estate, in like manner as if, immediately before the limitation creating the undivided shares, the land had been limited to the trustees on trust for sale, and in the meantime the land shall be held on the same trusts as would have been applicable thereto if it had been conveyed to the trustees.

(2) If and when the settled land so held in undivided shares becomes vested in the trustees of the settlement, it shall be held by them upon trust to sell the same or any part thereof (but not so as to prejudice any interest in tail in the net proceeds of sale) with full power to postpone the sale, and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale, after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the rights of the persons interested in the shares, which trusts, powers, and provisions (including the trust for sale) are in this section referred to as the "statutory trusts."

(3) If the tenant for life of full age, statutory owner, or personal representative refuses or neglects for one month after demand in writing to convey the settled land so held in undivided shares in manner aforesaid, or if by reason of any such person being out of the United Kingdom or being unable to be found, or for any other reason the court is satisfied that the conveyance cannot otherwise be made, or cannot be made without undue delay or expense, the court may, on the application of the trustees of the settlement, make an order vesting the settled land in them on the statutory trusts in the manner provided by this Act.

(4) Where undivided shares in land, created before the commencement of this Act, fall into possession after such commencement, the foregoing provisions of this section shall apply, and accordingly the land shall thereupon be conveyed to trustees for sale as joint tenants, and in the meantime shall be held on the same trusts as if it had been so conveyed.

(5) A devise, bequest, or testamentary appointment of land to two or more persons in undivided shares shall operate in equity as a devise or bequest of the land to the trustees (if any) of the will for the purposes of the Settled Land Acts, or, if no

such trustees are appointed, then to the personal representatives of the testator, and in each case (but without prejudice to the rights and powers of the personal representatives for purposes of administration) upon the statutory trusts.

(6) After the commencement of this Act an undivided share in land shall not be capable of being created except under a settlement; but this subsection does not apply to a declaration of trust of the proceeds of sale of land which is subject to a trust for sale.

(7) Where, after such commencement, land is expressed to be conveyed to persons of full age in undivided shares, the conveyance shall (notwithstanding anything to the contrary in this Act) operate as if the land had been expressed to be conveyed to the grantees, if four or less, or if more than four then to the four first named in the conveyance, as joint tenants upon the statutory trusts and so as to give effect to the rights of the persons who would have been entitled to the shares had the conveyance been valid, save that where the conveyance is made by way of mortgage the land shall vest in the grantees for a term of years absolute (as provided by this Act) or in the four first named, as joint tenants subject to cesser on redemption in like manner as if the mortgage money had belonged to them on a joint account, but without prejudice to the beneficial interests in the mortgage money and interest.

Joint tenancies.

3.—(1) Where a legal estate (not being settled land) is vested in joint tenants beneficially and any tenant desires to sever the joint tenancy in equity, he may give to the other or others a notice in writing of such desire or do such other acts or things as would in the case of personal estate have been effectual to sever the tenancy in equity, and thereupon the land shall be held by them as joint tenants on trust for sale with full power to postpone the sale and the net proceeds of sale and the net rents and profits until sale shall be held upon the trusts which would have been requisite for giving effect to the beneficial interests if there had been an actual severance. Section sixty-seven of the Conveyancing Act, 1881, shall apply to any such notice.

(2) From and after the commencement of this Act, no severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise, but this subsection does not affect the right of a joint tenant to release his interest to the other or others, or the right to sever a joint tenancy in an equitable interest (whether or not the legal estate is vested in the joint tenants) but when so vested the land shall be held by the joint tenants on trust for sale.

(3) Where a legal estate (not being settled land) is held in trust for any persons as joint tenants, the same shall be

held on trust for sale, with full power to postpone the sale, in like manner as if the persons beneficially entitled were tenants in common, but not so as to sever their joint tenancy in equity.

(4) From and after the commencement of this Act, every tenancy by entireties shall be converted into a joint tenancy, and in any disposition made or coming into operation after such commencement, a husband and wife shall, for all purposes of acquisition of any interest in property, be treated as two persons.

Rules of court.

4. Rules of court may be made for the purpose of giving effect to the provisions in this schedule.

Section 11.

FOURTH SCHEDULE.

DISPOSITIONS ON TRUST FOR SALE.

Appointment of trustees of dispositions on trust for sale.

1.—(1) The persons having power to appoint new trustees of a conveyance on trust for sale shall be bound to appoint the same persons (if any) who are for the time being trustees of the settlement of the proceeds of sale, but a purchaser shall not be concerned to see whether the proper persons are appointed to be trustees of the conveyance of the land.

(2) This section applies whether the settlement of the proceeds of sale or the conveyance on trust for sale comes into operation before or after the commencement of this Act.

Consents to the execution of a trust for sale; as to giving effect to the wishes of the persons interested and protection to trustees.

2.—(1) If the consent of more than two persons is made requisite by the disposition to the execution of a trust for sale of land then, in favour of a purchaser, the consent of any two of such persons to the execution of the trust or to the exercise of any statutory or other powers vested in the trustees for sale shall be deemed sufficient.

(2) A consent by a person not sui juris or who becomes subject to disability expressed to be required by a disposition in the case of any such trust or power shall not in favour of a purchaser be deemed to be requisite to the execution of the trust or the exercise of the power; but the trustees shall, in any such case, obtain the separate consent of the parent or testamentary or other guardian of an infant or of the committee or receiver (if any) of a lunatic or defective.

(3) The trustees for sale shall, so far as practicable, give effect to the wishes of the persons of full age for the time being beneficially interested in possession in the rents and profits of the land until sale, or, in case of dispute, of the majority (according to the value of their combined interests)

of such persons, but a purchaser shall not be concerned to see that such wishes are complied with.

(4) Where there is a power to postpone the sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustees for sale (including personal representatives) shall not be liable in any way for postponing the sale, in the exercise of their discretion, for any indefinite period; nor shall a purchaser of a legal estate be concerned in any case with any directions respecting the postponement of the sale. A power to postpone sale shall be implied unless a contrary intention appears.

(5) This section applies whether the trust for sale is created before or after the commencement or by virtue of this Act.

Purchaser not to be concerned with the trusts of the proceeds of sale if paid to two or more trustees or to a trust corporation.

3.—(1) A purchaser of a legal estate from trustees for sale shall not be concerned with the trusts affecting the proceeds of sale of land subject to a trust for sale (whether made to attach to such proceeds by virtue of this Act or otherwise), or affecting the rents and profits of the land until sale, whether or not those trusts are declared by the same instrument by which the trust for sale is created.

(2) The proceeds of sale or other capital money arising under a disposition on trust for sale of land (and notwithstanding anything to the contrary in such disposition or in the settlement of the net proceeds) shall not, except where the trustee is a trust corporation, be paid to or applied by the direction of fewer than two persons as trustees of the disposition, but this subsection does not affect the right of a sole personal representative as such to give valid receipts for or direct the application of the proceeds of sale or other capital money aforesaid; nor, except where capital money arises on a transaction, render it necessary to have more than one trustee.

Powers of management given to trustees for sale, trust of rents and profits till sale, and provisions as to partition among persons interested in the proceeds of sale.

44 & 45 Vict. c. 41.

4.—(1) Trustees for sale (with or without a power to postpone the sale) shall, in relation to the land or to manorial incidents and to the proceeds of sale, have all the powers of a tenant for life, and of the trustees of a settlement, under the Settled Land Acts, and also in relation to the land the powers of management conferred by subsections (2) and (3) of section forty-two of the Conveyancing Act, 1881: and (subject to any express trust to the contrary) all capital money arising under the said powers shall (without prejudice to the rights and powers of a personal representative for purposes of administration) unless paid or applied for any purpose authorised by the Settled Land Acts, be applicable in the same manner as if the money represented proceeds of sale arising under the trust for sale.

(2) Subject to any direction to the contrary in the disposition on trust for sale or in the settlement of the proceeds of sale, the net rents and profits of the land until sale, after keeping down costs of repairs and insurance and other outgoings, shall (without prejudice to the rights and powers of a personal representative as aforesaid) be paid or applied except so far as any part thereof may be liable to be set aside as capital money under the Settled Land Acts, in like manner as the income of investments representing the purchase money would be payable or applicable if a sale had been made and the proceeds had been duly invested.

(3) Where the net proceeds of sale have under the trusts affecting the same become absolutely vested in persons of full age in undivided shares (whether or not such shares may be subject to a derivative trust) the trustees for sale may (with the consent of the persons, if any, of full age, not being annuitants, interested in possession in the net rents and profits of the land until sale) partition the land remaining unsold or any part thereof, and provide (by way of mortgage or otherwise) for the payment of any equality money, and, upon such partition being arranged, the trustees for sale shall give effect thereto by conveying the land so partitioned in severalty (subject or not to any mortgage term or charge by way of legal mortgage, created for raising equality money) to persons of full age and either absolutely or on trust for sale or, where any part of the land becomes settled land by a vesting deed, or partly in one way and partly in another in accordance with the rights of the persons interested under the partition, but a purchaser shall not be concerned to see or inquire whether any such consent as aforesaid has been given:

Provided that—

(*a*) If a share in the net proceeds is absolutely vested in an infant, the trustees for sale may act on his behalf and retain land (to be held on trust for sale) or other property to represent his share, and in other respects the foregoing power shall apply as if the infant had been of full age:

(*b*) If a share in the net proceeds belongs to a lunatic or defective, the consent of his committee or receiver shall be sufficient to protect the trustees for sale:

(*c*) If a share in the net proceeds is affected by an incumbrance the trustees for sale may either give effect thereto or provide for the discharge thereof by means of the property allotted in respect of such share, as may be considered expedient.

(4) The powers conferred by subsection (1) of this section shall be exercised with such consents (if any) as would have been required on a sale under the trust for sale, and when exercised shall operate to overreach any equitable interests or powers which are by virtue of this Act made to attach to the net proceeds of sale as if created by a trust affecting those proceeds.

(5) If the trustees for sale refuse to sell or to exercise any of the powers conferred by this section, or the powers to delegate hereinafter conferred, any person interested may apply to the court for a vesting or other order for giving effect to the proposed transaction or for an order directing the trustees for sale to give effect thereto and the court may make such order as it thinks fit.

(6) Where, at the commencement of this Act, an order made under section seven of the Settled Land Act, 1884, is in force then the person on whom any power is thereby conferred shall, while the order remains in force, exercise such power in the names and on the behalf of the trustees for sale in like manner as if the power had been delegated to him under this Act.

(7) This section applies to dispositions on trust for sale coming into operation either before or after the commencement of this Act, or by virtue of this Act.

(8) This section does not apply where there is a person having the powers of a tenant for life under paragraph (ix) of subsection (1) of section fifty-eight of the Settled Land Act, 1882.

Delegation of powers of management by trustees for sale.

5.—(1) The powers of and incidental to leasing, accepting surrenders of leases and management, conferred on trustees for sale whether by this Act or otherwise, may, until sale of the land, be revocably delegated from time to time, by writing, signed by them, to any person of full age (not being merely an annuitant) for the time being beneficially interested (in possession) in the net rents and profits of the land during his life or for any less period : and in favour of a lessee such writing shall, unless the contrary appears, be sufficient evidence that the person named therein is a person to whom the powers may be delegated, and the production of such writing shall, unless the contrary appears, be sufficient evidence that the delegation has not been revoked.

(2) Any power so delegated shall be exercised only in the names and on behalf of the trustees delegating the same.

(3) The persons delegating any power under this section shall not, in relation to the exercise or purported exercise of

the power, be liable for the acts or defaults of the person to whom the power is delegated, but he shall, in relation to the exercise of the power by him, be deemed to be in the position and to have the duties and liabilities of a trustee.

Section 12.

FIFTH SCHEDULE.

PROVISIONS RELATING TO SETTLEMENTS.

Authorised method of settling land inter vivos by "vesting" and "trust" deeds.

1.—(1) After the commencement of this Act every settlement of land inter vivos shall be effected as follows, and in no other way, namely:—

There shall (save as hereinafter mentioned) be two deeds, one of which (in this Act referred to as "the vesting deed") shall be a conveyance of the land, for the estate or interest the subject of the settlement, and shall appoint trustees for the purposes of the Settled Land Acts, and the other of which (in this Act referred to as "the trust deed") shall declare the trusts affecting the settled land, appoint trustees for the purposes of the Settled Land Acts, and shall bear any ad valorem stamp duty which may be payable (whether by virtue of the conveyance or otherwise) in respect of the settlement.

(2) An agreement for the settlement of land by an estate owner, shall, and an agreement for the settlement of land by a person entitled to an equitable interest which is capable, when in possession, of subsisting at law, or to an entailed interest, shall, if and when the interest of the settlor is or becomes vested in possession, be deemed a contract to convey or create a legal estate, and effect shall be given thereto by a vesting deed and a trust deed in accordance with this section.

(3) No undivided share in land can be made the subject of a settlement, but the entirety of the land shall be vested in trustees for sale, as provided by this Act, and any disposition purporting make to such a settlement shall only operate as a settlement of a corresponding share of the net proceeds of sale and of the rents and profits until sale of the entirety of the land.

(4) By the vesting deed the settled land shall be conveyed to the tenant for life of full age, or statutory owner (and if more

than one as joint tenants) to be held upon the trusts declared concerning the same by the trust deed, and for giving effect to any equitable interests and powers; and the persons who are appointed as the trustees of the vesting deed shall be the same persons as are the trustees of the trust deed, and such persons are in this Act referred to as the trustees of the settlement.

Provided that, where the land is already vested in the tenant for life of full age or statutory owner, it shall be sufficient, without any other conveyance, if the vesting deed declares that the land is vested in him on the requisite trusts.

The contents of "vesting instruments," and as to land acquired with capital money.

2.—(1) Every vesting instrument for giving effect to a settlement or made on a change of ownership of settled land (in this Act referred to as a principal vesting instrument) shall contain the following statements or particulars, namely:—

(*a*) That the land is vested in the tenant for life of full age or statutory owner upon the trusts from time to time affecting the settled land:

(*b*) The names of the persons who are the trustees of the settlement:

(*c*) The powers (if any) relating to the land expressly conferred by the settlement in extension of those conferred by the Settled Land Acts:

(*d*) The name of any person who has power to appoint new trustees of the settlement.

(2) Where after the commencement of this Act land is acquired with capital money arising under a settlement, or in exchange for settled land, or a rentcharge is reserved on a grant of settled land, the land shall be conveyed to, and the rentcharge by virtue of this Act shall become vested in the tenant for life of full age or statutory owner, and the conveyance or grant shall be a supplemental vesting deed.

(3) A supplemental vesting deed executed on the acquisition of land to be made subject to a settlement shall contain the following statements or particulars, namely:—

(*a*) That it is supplemental to a vesting instrument therein referred to being the last vesting instrument (other than a supplemental vesting deed) affecting land subject to the settlement:

(*b*) That the land conveyed is to be held upon and subject to the same trusts and powers as the land comprised in the principal vesting instrument:

(*c*) The names of the persons who are the trustees of the settlement:

(*d*) The name of any person who has power to appoint new trustees of the settlement.

(4) A supplemental vesting deed reserving a rentcharge on a grant of settled land shall contain the following statements or particulars:—

(*a*) That the rentcharge is vested in the grantor and is subject to the settlement which, immediately before the grant, was subsisting with respect to the land out of which it was reserved:

(*b*) Particulars of the last principal vesting instrument affecting such land.

(5) The statements or particulars required by this section may be incorporated by reference to an existing vesting instrument.

(6) A vesting instrument shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein.

(7) The acquisition of the land shall not operate to increase or multiply charges or powers of charging.

Vesting deeds, assents, or discharges, on change of ownership of the settled land or on the termination of the settlement.

3.—(1) If by reason of an infant attaining full age he becomes entitled to the settled land either as a tenant for life of full age or absolutely, he shall (notwithstanding any stipulation to the contrary) be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the same to him (but in the case of personal representatives subject to their right to require any death duties and costs to be provided for) by a vesting deed, assent or conveyance (as the case may require) at the cost of the trust estate.

(2) If by reason of the forfeiture, surrender, or determination of his beneficial interest under a settlement the person in whom the settled land is vested ceases to have the statutory powers of a tenant for life of full age, and any limitations of the settlement are still subsisting, he shall be bound forthwith to convey the settled land to the tenant for life of full age or statutory owner, by a vesting deed, at the cost of the trust estate.

(3) If by reason of the satisfaction or determination of all interests, powers, and charges, other than the estate and powers of a person of full age who has become absolutely entitled, the settlement is determined, either as to the whole or any part of the settled land, then the trustees of the settlement shall, at the cost of the trust estate, by deed declare that they are discharged from the trust, either as to the whole or any part of the land as the case may require, and thenceforth a purchaser of a legal estate shall be entitled to assume that such land has ceased to be settled land.

(4) If the trustees of the settlement, on being requested so to do by the person of full age who has become absolutely entitled, refuse to execute a deed of discharge, or if for any reason the discharge cannot be effected without undue delay or expense, such person may apply to the court for an order discharging the trustees, as respects the whole or any part of the settled land, and the court may make such order as it may think fit.

(5) This section applies whether the settlement comes into operation before or after the commencement or by virtue of this Act.

As to settlements created by will after this Act and as to settled land vested in a personal representative at the commencement of this Act.

4.—(1) Where a settlement is created by the will of a person who dies after the commencement of this Act, the will shall, for the purposes of this Act, be deemed "the trust deed" and where settled land remains at the commencement of this Act vested in the personal representatives of a person who dies before such commencement, the settlement (including a will and a settlement deemed to be subsisting or to have been made by any person) shall, for the purposes of this Act, be deemed "the trust deed."

(2) Subject to the rights and powers of the personal representatives for purposes of administration, and to their being satisfied that all death duties and costs will be provided for, they shall be bound (except during a minority) by a vesting assent in writing signed by them (which shall operate as a conveyance) to convey the settled land (and so as to bind any equitable interest or power which by virtue of this Act or otherwise is protected by the settlement) to the tenant for life of full age or statutory owner named therein, and, if more than one, as joint tenants at the cost of the trust estate.

Forfeiture and stamps.

5.—(1) Any vesting effected under the powers conferred by this Act in relation to settled land shall not operate as a breach of covenant or condition against alienation or give rise to a forfeiture.

(2) Nothing in this Act shall operate to impose any stamp duty on a vesting assent, nor shall any ad valorem stamp duty be payable in respect of a vesting deed or order made for giving effect to an existing settlement.

Devolution of settled land on a death.

6.—(1) On the death, after the commencement of this Act, of a tenant for life of full age or statutory owner, or of the survivor of two or more of them, in whom the settled land was vested, the same shall devolve upon his personal representatives upon trust (subject to the personal representatives being satisfied that any death duties and costs will be provided for)

to convey the settled land by a vesting assent to the tenant for life of full age or statutory owner or the person (if any) of full age who has become absolutely entitled thereto at the cost of the trust estate.

(2) This section does not affect the right of the personal representatives to transfer or create such legal estates to take effect in priority to the settlement as may be required for giving effect to the obligations imposed on them by this Act.

(3) This section applies to settlements coming into operation either before or after the commencement or by virtue of this Act.

Disputes as to vesting deeds and assents, and power to make vesting orders of settled land.

7.—(1) If any question arises as to the person in whose favour a vesting deed or assent ought to be executed, or as to the contents thereof, the trustees of the settlement, personal representatives, or any person interested under the settlement may apply to the court for directions under section forty-four of the Settled Land Act, 1882.

(2) If any person who is bound to execute a vesting instrument or in whom settled land is wrongly vested refuses or neglects to execute the requisite vesting deed or assent within one month after demand in writing, or if such person is outside the United Kingdom, or cannot be found, or it is not known whether he is alive or dead, or if for any reason the court is satisfied that the vesting deed or assent cannot be executed, or cannot be executed without undue delay or expense, the court may, on the application of any person interested, make an order vesting the settled land in the tenant for life of full age or statutory owner or person (if any) of full age absolutely entitled, and the provisions of this Act relating to vesting instruments shall apply to any order so made which shall (if the land remains settled land) contain the like statements and particulars.

(3) No stamp duty shall be payable in respect of a vesting order made in place of a vesting assent.

Existing settlements and instruments not complying with this Act to operate as "trust deeds."

8.—(1) Every settlement of land subsisting at the commencement or created by virtue of this Act, and every settlement of land which after the commencement of this Act is deemed to have been made by any person, and every instrument which under the Settled Land Acts is deemed to be a settlement, and every instrument inter vivos intended to create a settlement which is executed after the commencement of this Act and does not comply with the requirements of this Act, shall, for the purposes of this Act, be deemed a "trust deed," and if a legal estate is conveyed by any such instrument as last aforesaid the estate owner shall hold the legal estate on trust to execute a vesting deed in the manner required by this Act.

(2) Until a vesting instrument is executed or made pursuant to this Act in respect of the settled land, any purported

disposition thereof inter vivos shall not take effect at law, except in favour of a purchaser of a legal estate without notice of any trust, but, save as aforesaid shall operate only as a contract for valuable consideration to carry out the transaction after the requisite vesting instrument has been obtained, and a purchaser of a legal estate shall not be concerned therewith unless the contract is registered as a land charge.

(3) This section does not apply to land subject to an immediate trust for sale, with or without a power to postpone the sale, nor to settled land vested in personal representatives, but save as aforesaid applies to a will (creating a settlement) of a person who dies before the commencement of this Act.

Vesting deeds and orders for giving effect to existing settlements and trust deeds inter vivos.

9.—(1) In the case of every settlement of land subsisting at the commencement or created by virtue of this Act (whether or not the settled land is already vested in the trustees of the settlement), as soon as practicable after such commencement, and, in the case of every settlement deemed to have been made by any person after the commencement of this Act, and of every instrument which after such commencement is deemed to be a settlement, and of every instrument inter vivos intended to create a settlement which is executed after the commencement of this Act, and does not comply with the requirements of this Act, as soon as practicable after such settlement or instrument takes effect, the trustees (if any) of the settlement for the purposes of the Settled Land Acts shall, on the request of a tenant for life of full age or statutory owner, and at the cost of the trust estate, execute a vesting deed (containing the proper particulars) declaring that the settled land shall vest or is vested in the tenant for life of full age or statutory owner named therein (including themselves if they are the statutory owners), and such deed shall operate to convey or vest the settled land (so as to bind any equitable interest or power which by virtue of this Act or otherwise is protected by the settlement) to or in the tenant for life of full age or statutory owner named therein, and, if more than one, as joint tenants.

(2) In the case of a base fee whether or not the reversion is in the Crown, or of a fee determinable whether by limitation or condition, or of an estate tail which by Act of Parliament is incapable of being barred or defeated (whether the reversion is in the Crown or not), the entire fee simple is settled land, and the instrument creating the estate tail, or determinable fee is the settlement, and the reversion or right of reverter upon the cesser of such base fee, determinable fee, or estate tail shall be deemed to be an estate limited by the settlement, and this subsection shall bind the Crown.

(3) If there are no trustees of the settlement, then (in default of a person able and willing to appoint such trustees)

an application shall be made to the court under section thirty-eight of the Settled Land Act, 1882, by the tenant for life of full age or statutory owner, or any other person interested, for the appointment of such trustees.

(4) If default is made in the execution of any such vesting deed, the provisions of this Act relating to vesting orders of settled land shall apply in like manner as if the trustees of the settlement were persons in whom the settled land is wrongly vested.

(5) In the case of settlements subsisting at the commencement of this Act, all the estates, interests, and powers thereby limited, which are not by this Act otherwise converted into equitable interests or powers, shall, as from the date of the vesting deed or order, take effect only in equity.

(6) The settlement subsisting at the commencement of this Act and any instrument whereby land has been conveyed to the uses or upon the trusts of the settlement shall form part of the title of the estate owner of the settled land so far only as the statements and particulars in any vesting instrument may be made by reference thereto and for no other purpose.

(7) This section does not affect the powers and duties of personal representatives in regard to settled land vested in them at the commencement of this Act.

Restrictions on dispositions where Settled Land Act trustees are appointed.

10.—(1) Where the last or only principal vesting instrument appoints trustees for the purposes of the Settled Land Acts, and such trustees have not been discharged, then—

(*a*) Any disposition by the tenant for life of full age or statutory owner of the settled land, other than a disposition authorised by the Settled Land Acts (including any extended powers mentioned in the vesting instrument) or by any other statute, shall be void, except for the purpose of conveying or creating such equitable interests as he has (in right of his equitable interests and powers under the settlement) power to convey or create; and

(*b*) If any capital money is payable in respect of a transaction, a conveyance to a purchaser of the settled land shall only take effect under the Settled Land Acts if the capital money is paid to or by the direction of the trustees of the settlement or into court; and

(*c*) Notwithstanding anything to the contrary in the vesting instrument, or settlement, capital money shall not, except where the trustee is a trust corporation, be paid to or applied by the direction of fewer than two persons as trustees thereof.

(2) The restrictions imposed by this section do not affect—

(*a*) The right of a personal representative in whom the settled land may be vested to convey or deal with the same;

(*b*) The right of a person of full age who has become absolutely entitled to the settled land, free from any limitations, powers, and charges taking effect under the settlement, to require the land to be conveyed to him;

(*c*) The power of the tenant for life of full age, statutory owner, or personal representative in whom the settled land is vested to transfer or create such legal estates, to take effect in priority to the settlement, as may be required for giving effect to the obligations imposed on him by this Act, but where any capital money is raised or received in respect of the transaction the same shall be paid to or by the direction of the trustees of the settlement, or in accordance with an order of the court.

(3) Where, after the commencement of this Act, the tenant for life of full age conveys or deals with his beneficial interest in possession in favour of a purchaser, and the interest so conveyed or created would, but for the restrictions imposed by Part I. of this Act on the creation of legal estates, have been a legal interest, then the purchaser shall (without prejudice to any protection conferred by this Act on a purchaser of a legal estate) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise if the interest so conveyed or created had been a legal estate and the reversion (if any) on any leases or tenancies derived out of the settled land had been vested in him.

Consents by assignees of life interests.

11. Nothing in Part I. of this Act shall discharge a tenant for life of full age from his obligation to obtain any consent required to be given under section fifty of the Settled Land Act, 1882 (as amended by any subsequent enactment), but a purchaser of a legal estate shall not be concerned to see or inquire whether any such consent has been given.

Indemnities to personal representatives and others.

12. A personal representative, trustee, or other person who has in good faith pursuant to this Act, executed a vesting deed, assent, or other conveyance of the settled land, or a deed of discharge of trustees, shall be absolutely discharged from all liability in respect of the equitable interests and powers taking effect under or protected by the settlement, and shall be entitled to be kept indemnified at the cost of the trust estate from all liabilities affecting the settled land, but the person to whom the settled land is conveyed (not being a

purchaser taking free therefrom) shall hold the settled land upon the trusts (if any) affecting the same.

Provisions for the protection of a purchaser in good faith of settled land.

13.—(1) A purchaser of a legal estate in settled land from a tenant for life of full age or statutory owner shall not (except as hereby expressly provided) be bound or entitled to call for any information concerning the trust deed or any ad valorem stamp duty thereon, and whether or not he has notice of its contents he shall, save as hereinafter provided, be bound and entitled if the last principal vesting instrument states that the land is held on trust, or appoints trustees thereof for the purposes of the Settled Land Acts, to assume that—

(*a*) The person in whom the land is thereby vested is the tenant for life of full age or statutory owner and has all the powers of a tenant for life under the Settled Land Acts as (if at all) thereby extended;

(*b*) The trustees thereby appointed, or their successors appearing to be duly appointed, are the properly constituted trustees of the settlement;

(*c*) The statements and particulars required by this Act and contained (expressly or by reference) in the last principal vesting instrument were correct at the date thereof;

(*d*) The statutory power to appoint new trustees applies thereto, if no person is nominated to appoint new trustees thereof:

Provided nevertheless that, as regards the first vesting deed executed for the purpose of giving effect to a settlement subsisting at the commencement of this Act, a purchaser shall be concerned to see that the person in whom the land is thereby vested is the tenant for life of full age or statutory owner to whom it ought to be conveyed.

(2) A purchaser of a legal estate in settled land from a personal representative shall be entitled to act on the following assumptions:—

(i) If the capital money (if any) payable in respect of the transaction is paid to the personal representative, that such representative is acting under his statutory or other powers and requires the money for purposes of administration:

(ii) If such capital money is, by the direction of the personal representative, paid to persons who are stated to be the trustees of a settlement, that such trustees are the duly constituted trustees of the settlement for the purposes of the Settled Land Acts, and that the personal representative is acting under his statutory powers during a minority:

(iii) In any other case that the personal representative is acting under his statutory or other powers.

(3) Where no capital money arises under a transaction, nothing in Part I. of this Act shall (except for the purpose of giving effect to a settlement subsisting at the commencement or created by virtue of this Act) render it necessary to appoint trustees of the settlement, but the tenant for life of full age or statutory owner shall, in favour of a purchaser of a legal estate, have power to give effect to the transaction in like manner as if such trustees had been appointed, and to bind the equitable interests and powers which are by this Act protected by the settlement.

(4) If a conveyance of or an assent relating to land formerly subject to a vesting instrument does not state that the land is held on trust, and does not appoint trustees for the purposes of the Settled Land Acts, a purchaser of a legal estate shall be bound and entitled to act on the assumption that the person in whom the land was thereby vested took the same as an absolute owner free from any equitable interest or power affecting his estate.

SIXTH SCHEDULE.

Section 13.

PROVISIONS RELATING TO INFANTS AND LUNATICS.

Infant's beneficial legal estate made to vest in the trustees of the settlement.

1.—(1) Where, at the commencement of this Act, a legal estate in land is vested in an infant beneficially, or would by virtue of any provision of this Act have been liable to be so vested if the infant were of full age, it shall, by virtue of this Act, vest in the trustees (if any) of the settlement upon such trusts as may be requisite for giving effect to the rights of the infant and other persons (if any) interested:

Provided that—

(i) If there are no such trustees, then, pending their appointment, the legal estate shall, by virtue of this Act, vest in the Public Trustee upon the trusts aforesaid:

(ii) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act on behalf of the infant by his father, mother, or testamentary or other guardian in the order named:

(iii) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent:

(iv) The father, mother, testamentary or other guardian of the infant (in the order named) may under the

powers conferred by this Act appoint new trustees in place of the Public Trustee, and vest the legal estate in them on the trusts aforesaid, and in default of any such appointment the infant by his next friend, may, at any time during the minority, apply to the court for the appointment of trustees of the settlement, and the court may make such order as it thinks fit, and if thereby trustees of such settlement are appointed, the legal estate shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts aforesaid.

(2) This section applies to settled land, whether the infant was entitled to the settled land or was tenant for life or a person having the powers of a tenant for life thereof (or would have had such powers if of full age) but does not apply to a legal estate in land vested in personal representatives, or in trustees for sale, and shall have effect subject to any mortgage term created by this Act.

As to infant trustees and mortgagees of land.

2.—(1) Where, at the commencement of this Act, a legal estate in land is vested solely in an infant as a personal representative, or a trustee of a settlement, or on trust for sale, or on any other trust, or by way of mortgage, or would by virtue of any provision of this Act have been so vested if the infant were of full age, the legal estate and the mortgage debt (if any) and interest thereon shall, by virtue of this Act, vest in the Public Trustee, pending the appointment of trustees as hereinafter provided, as to the land upon the trusts, and subject to the equities affecting the same (but in the case of a mortgage estate for a term of years absolute in accordance with this Act), and as to the mortgage debt and interest upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein :

Provided that—

(*a*) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act by or on behalf of the persons interested in the land or the income thereof, or of the mortgage debt or interest thereon (as the case may be), and so that the father, mother, or testamentary or other guardian (in the order named) may make such request on behalf of the infant :

(*b*) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent :

(*c*) Any person interested in the land or the income thereof, or in the mortgage debt or in the interest

thereon (as the case may be), may, at any time during the minority, apply to the court for the appointment of trustees of the trust, and the court may make such order as it thinks fit, and if thereby new trustees are appointed the legal estate (but in the case of a mortgage estate only for a term of years absolute as aforesaid) and the mortgage debt (if any) and interest shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts and subject to the equities aforesaid:

(*d*) Neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon.

(2) Where, at the commencement of this Act, a legal estate in land is vested in an infant with another person or other persons as personal representatives, trustees, or mortgagees, or would, by virtue of this Act, have been so vested if the infant were of full age, the legal estate in the land with the mortgage debt (if any) and the interest thereon shall, by virtue of this Act, vest in such other person or persons of full age, as to the legal estate upon the trusts and subject to the equities affecting the same (but in the case of a mortgage estate only for a term of years absolute as aforesaid), and as to the mortgage debt and interest upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein, but neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon:

Provided that if, by virtue of this subsection, the legal estate and mortgage debt (if any) become vested in a sole trustee, then the father, mother, testamentary or other guardian of the infant (in the order named) may by writing appoint a new trustee in place of the infant, and section ten of the Trustee Act, 1893, shall apply as if they had been nominated in that order for the purpose of appointing new trustees.

Provisions where an infant becomes entitled on a death.

3.—(1) The provisions of this section shall have effect where an infant becomes entitled on a death to any interest in land not being an interest in the proceeds of sale of land subject to a trust for sale, and not being an interest in an undivided share in land.

(2) Where a tenant for life, or person deemed to be a tenant for life, or who, if of full age, would have the powers of a tenant for life of or over the settled land, is an infant,

and the settled land is vested in a personal representative, then the personal representative shall, during the minority of any such infant, have, in reference to the settled land, all the powers conferred by the Settled Land Acts on a tenant for life and on the trustees of the settlement.

(3) If and when the personal representative would, if the infant had been of full age, have been bound to convey the settled land to him, then the personal representative may, if he thinks fit, convey the same by a vesting instrument to the trustees of the settlement, and in the meantime shall, during the minority, give effect to the directions of the trustees of the settlement, and shall not be concerned with the propriety of any conveyance directed to be made by such trustees if the same appears to be a proper conveyance under the powers conferred by the Settled Land Acts, and the capital money (if any) arising under the conveyance is paid to or by the direction of the trustees of the settlement or into court; but a purchaser dealing with the personal representative and paying the capital money (if any) to him shall not be concerned to see that the money is paid to trustees of the settlement or into court, or inquire whether the personal representative is liable to give effect to any such directions, or whether any such directions have been given.

(4) This section does not apply if the personal representative has disposed of the settled land before the commencement of this Act, but, save as aforesaid, applies whether the infant becomes entitled before or after such commencement, and shall have effect during successive minorities until a person of full age becomes entitled to require the settled land to be vested in him.

Abolition of conveyances of legal estates to infants.

4.—(1) After the commencement of this Act, a conveyance of a legal estate in land to an infant for his own benefit shall operate only as an agreement for valuable consideration to execute a settlement by means of a vesting deed and trust deed in favour of the infant, to appoint trustees of the settlement, and in the meantime to hold the land in trust for the infant.

(2) After the commencement of this Act, a conveyance of a legal estate in land to an infant by way of mortgage (including a charge by way of legal mortgage) shall operate only as an agreement for valuable consideration to execute a proper conveyance when the infant attains full age, and in the meantime to hold any beneficial interest in the mortgage debt in trust for the persons for whose benefit the conveyance was intended to be made:

Provided that, if the conveyance is made to the infant and another person or other persons, it shall operate as if the infant had not been named therein, but without prejudice to

any beneficial interest in the mortgage debt intended to be thereby provided for the infant.

(3) This section does not apply to the transfer to an infant of any interest in the proceeds of sale of land which is subject to a trust for sale (with or without a power to postpone the sale), nor to the transfer to an infant of an equitable interest, taking effect under a settlement, in settled land.

(4) This section does not affect the powers conferred by the Infant Settlements Act, 1855, provided that a legal estate in land is not vested in an infant; nor does anything in Part I. of this Act affect the presumption that, unless the contrary thereby appears, the persons expressed to be parties to any conveyance were of full age at the date thereof. 18 & 19 Vict. c. 43.

Infants not to be appointed trustees or personal representatives.

5.—(1) After the commencement of this Act, the appointment of an infant to be a trustee in relation to any settlement or trust shall be void, but without prejudice to the power to appoint a new trustee to fill the vacancy.

(2) The appointment in a will by a testator who dies after the commencement of this Act of an infant to be an executor shall not operate to transfer any interest in the property of the deceased to the infant or to constitute him a personal representative for any purpose unless and until probate is granted to him after he has attained full age.

(3) Nothing in this section shall affect the right of the Probate Division of the High Court of Justice to grant probate or letters of administration to any person after he has attained full age.

Receipts by married infants.

6. A married infant shall have power to give valid receipts for all income (including statutory accumulations of income made during the minority) to which the infant may be entitled in like manner as if the infant were of full age.

Conveyances on behalf of lunatics and defectives.

7.—(1) Where a legal estate in land (whether settled or not) is vested in a lunatic, whether so found or not, or a defective, either solely or jointly with another person or other persons, his committee or receiver shall, under an order in lunacy, or otherwise, or under any statutory power, make or concur in making all requisite dispositions for conveying or creating a legal estate in the name and on behalf of the lunatic or defective.

(2) If land held on trust for sale is vested in a lunatic, whether so found or not, or a defective, either solely or jointly with another person or other persons, a new trustee shall be appointed in his place, or he shall be otherwise discharged from the trust, before the legal estate is dealt with under the trust for sale or under the powers vested in the trustees for sale.

Power for the court to settle the beneficial interests of a lunatic or defective.

8.—(1) From and after the commencement of this Act, the court may direct a settlement to be made of the property of a lunatic (whether so found or not) or defective or any part thereof or any interest therein, on such trusts and subject to such powers and provisions as the court may deem expedient, and in particular may give such directions—

(*a*) where the lunatic or defective is the holder of a title of honour, and the property would not devolve with such title either under a testamentary disposition executed by him, or on his intestacy if he died intestate; or

(*b*) where the property has been acquired under a settlement, a will or an intestacy, or represents property so acquired; or

(*c*) where by reason of any change in the law of intestacy (whether by virtue of this Act or otherwise) or of any change in circumstances since the execution by the lunatic or defective of a testamentary disposition, or of any absence of information at the time of such execution, or on account of the former management of the property or the expenditure of money in improving or maintaining the same or for any other special reason the court is satisfied that any person might suffer an injustice if the property were allowed to devolve as undisposed of on the death intestate of the lunatic or defective or under any testamentary disposition executed by him.

(2) The court may direct the committee or receiver of the lunatic or defective, or any trustee for him, to execute any vesting instrument, trust deed, conveyance (including a disentailing assurance) or other instrument and to do any other act or thing which may be required for effectuating the settlement in the name and on behalf of the lunatic or defective, and, for that purpose, may make a vesting order or appoint a person to convey; and any settlement approved by the court shall be as effectual and binding on all persons interested as if the same had been made by the lunatic or defective while of full capacity.

(3) This section applies whether or not the lunatic or defective has executed a testamentary disposition and notwithstanding that it is not known whether he has executed such a disposition or not, but does not apply when he is an infant.

(4) Subject to any rules of court to the contrary, all applications under this section shall be made to the Chancery Division of the High Court, notwithstanding that the property is being administered in lunacy.

(5) Any person who under this Act has, or if this Act had not been passed would have had, a *spes successionis* (whether under the testamentary disposition if any is known to exist or in the event of the intestacy of the lunatic or defective) or interest in the property of the lunatic or defective or in any part thereof, as well as the committee or receiver and any other person who may be authorised by rules of court, shall have power to apply to the court for an order under this section.

(6) Subject to making due provision for the maintenance of the lunatic or defective in accordance with his station in life, whether out of the capital or income of the property settled or other property or partly in one way and partly in another, and to providing, by means of a power of appointment or revocation, or otherwise, for the possibility of the lunatic or defective recovering full capacity, the court may, in making any order under this section, have regard to—

(i) the manner in which the property has been settled or dealt with on former occasions;

(ii) in the case of land, the welfare of the labourers and other persons employed thereon, and the expediency of settling personal estate to devolve therewith;

(iii) the continuation or provision of any pensions, and the application of any part of the income for charitable purposes;

(iv) the provisions of any testamentary disposition of the lunatic or defective;

(v) the expediency of providing for—

(*a*) jointures, portions, and other annual or capital charges and powers to create the same;

(*b*) discretionary trusts, trusts for effecting or maintaining policies of assurance, powers of appointment, sinking funds for making good loss by fire (in lieu of, or in addition to, insurance) or for any other purpose;

(*c*) the extension of any statutory powers of investment management or otherwise;

(*d*) the manner in which any costs are to be raised and paid, whether out of the settled property or otherwise;

(*e*) any other matter or thing which, having regard to the nature of the settlement, of the property to be settled, and the management, development, and enjoyment thereof, and to the persons who are to take, either successively or otherwise, the court may consider material.

(7) Rules of court may be made for giving effect to the provisions of this section, and in particular for compelling information to be furnished respecting, and production of, testamentary dispositions, and the lodgment of the same in court; for prescribing what notices (if any) of the proceedings are to be served, for dispensing with such notices and, when necessary, for the making of representation orders.

(8) In this section, "testamentary disposition" means an instrument executed by the lunatic or defective while of full testamentary capacity, which, if unrevoked, might, on his death, be proved as a will or codicil; and the court may act on such evidence as to the existence or absence of a testamentary disposition as it thinks fit.

(9) At any time before the death of the lunatic or defective, the court may, as respects any property remaining subject to the trusts of a settlement made under this section, on being satisfied that any material fact was not disclosed to the court when the settlement was made, or on account of any substantial change in circumstances, by order vary the settlement in such manner as it thinks fit, and give any consequential directions.

Section 14.

SEVENTH SCHEDULE.

AS TO LAND CHARGES AND LOCAL LAND CHARGES.

Extension of meaning of "land charge." 51 & 52 Vict. c. 51. 8 Edw. 7. c. 28.

1.—(1) The expression "land charge" in section four of the Land Charges Registration and Searches Act, 1888 (in this schedule called "the Act of 1888"), as amended by section nineteen of the Agricultural Holdings Act, 1908, shall after the commencement of this Act, and notwithstanding that the charge was not created pursuant to an application by any person, include:—

(*a*) Any charge (except in respect of registered land) acquired by the Commissioners of Inland Revenue under any statute passed or hereafter to be passed, for death duties; and

(*b*) Any equitable charge (except in respect of registered land) acquired after the commencement of this Act by a tenant for life of full age or statutory owner under the Finance Act, 1894, or any other statute by reason of the discharge by him of any death duties or other liabilities, and to which special priority is given by the statute; and

(*c*) Any equitable charge not hereinbefore specified (except in respect of registered land) created or arising after the commencement of this Act which is not secured by a deposit of documents relating to the legal estate affected; and

(*d*) A covenant or agreement restrictive of the user of freehold land, entered into after the commencement of this Act, and capable of affecting a purchaser with notice thereof (in this section referred to as a restrictive covenant); and

(*e*) Any easement, right, or privilege over or affecting land created or arising after the commencement of this Act and being merely an equitable interest (in this section referred to as an equitable easement); and

(*f*) Any contract, by an estate owner or by a person entitled to have a legal estate conveyed to him, to convey or create a legal estate (including a contract conferring a valid option of purchase, a right of pre-emption, and any other like right) entered into after the commencement of this Act; and

(*g*) Any other charge included in the definition of "land charge" contained in section four of the Act of 1888 (as amended):

Provided that the registration of any charge in respect of the matters mentioned in paragraphs (*b*) and (*c*) of this subsection shall not operate to prevent such charge from being overreached by a conveyance to a purchaser of a legal estate in or created out of land subject to a trust for sale or a settlement.

(2) In section ten of the Act of 1888, after the word "application" shall be inserted the words "if any."

(3) In regard to charges which are constituted land charges by this section:—

(*a*) The provisions of section eleven of the Act of 1888 shall not apply to a restrictive covenant, or an equitable easement or contract, but in other cases shall apply whether the land charge was created before or after the commencement of this Act:

(*b*) The provisions of section twelve of that Act shall apply where the land charge is created or arises after the commencement of this Act, save that a charge for death duties or an equitable easement or contract not registered as provided by this section shall not be void as against a purchaser for value otherwise than for money or money's worth:

(*c*) The provisions of section thirteen of that Act shall not apply to a restrictive covenant, or an equitable

easement entered into or created before the commencement of this Act, but in other cases shall apply after the expiration of one year from the first assignment inter vivos, occurring after the commencement of this Act of a land charge created before the commencement of this Act:

(*d*) General rules may be made under section eighteen of that Act for carrying into effect the provisions of this section, for providing for the mode of registration of a land charge and any assignment thereof (and in the case of a restrictive covenant, equitable easement, charge, or contract by reference to the instrument imposing or creating the restriction or charge or interest, or an extract therefrom) and for the cancellation of the registration of a land charge without an order of the court, on the cesser thereof, or with the consent of the person entitled thereto, or on sufficient evidence being furnished that the land charge has been or is capable of being overridden under the provisions of this Act or otherwise:

(*e*) Nothing in this section shall be deemed to authorise the Commissioners of Inland Revenue to register a land charge in respect of any claim for death duty, unless the duty has become a charge on the land, and, in registering any such charge, a statement shall be furnished of the duties in respect of which the charge is claimed, and, so far as possible, of the land affected.

(4) Where a land charge is not created by an instrument, then short particulars of the effect of the charge shall be stated in the declaration lodged in support of the application to register the charge.

(5) A land charge within the meaning of section four of the Act of 1888 as amended by the Agricultural Holdings Act, 1908, for securing money created before or after the commencement of this Act shall, when registered, take effect as if the same had been created by a charge by way of legal mortgage made pursuant to this Act, but without prejudice to the priority of the charge.

(6) Registration under section ninety-three of the Companies (Consolidation) Act, 1908, shall in the case of a land charge for securing money, be sufficient in place of registration under the Act of 1888, and shall have effect as if the land charge had been registered under that Act as amended.

(7) In the case of an equitable charge, restrictive covenant, or other matter constituted a land charge by this Act, the registration in the prescribed manner in a local deeds registry

of the document creating it shall be sufficient in place of registration under the Act of 1888, and the registration shall have effect as if the document or matter had been registered under that Act as amended.

As to "local land charges."

2.—(1) Any charge (hereinafter called "a local land charge") acquired either before or after the commencement of this Act by the council of any administrative county, metropolitan borough, or urban or rural district, or by the corporation of any municipal borough or by any other local authority under the Public Health Acts, the Metropolis Management Acts, 1855 to 1893, or the Private Street Works Act, 1892, or under any similar statute (public, general, or local) passed or hereafter to be passed, which takes effect by virtue of the statute, shall be registered in the prescribed manner by the proper officer of the local authority, and unless and until so registered shall (save as hereinafter mentioned in regard to charges created or arising before the commencement of this Act) be void as against a purchaser for money or money's worth of a legal estate in the land affected thereby.

(2) Save as expressly provided by this section, the provisions of the Act of 1888, as amended by this Act, shall apply to a local land charge.

(3) As regards a local land charge, the registration by the proper officer shall (without prejudice to the right of the Land Registrar also to register the charge if and when sufficient information is furnished to him) take the place of registration by the Land Registrar, and, in reference thereto, the proper officer of the local authority shall have all the powers and be subject to the same obligations as the Land Registrar has or is subject to in regard to a land charge.

(4) Where a local authority has expended money for any purpose which, when the work is completed and any requisite resolution is passed or order is made, will confer a charge upon land, the proper officer of the local authority may in the meantime register a local land charge, in his register, against the land generally, without specifying the amount, but the registration of such general charge shall be cancelled within the prescribed time not being less than one year after the charge is ascertained and allotted, and thereupon the specific local land charges shall (unless previously discharged) be registered as of the date on which the general charge was registered.

(5) Nothing in this section shall operate to impose any obligation to register any local land charge created or arising before the commencement of this Act except after the expiration of one year from such commencement or to discharge a purchaser for value from liability in respect of any local land charge which is not for the time being required to be registered.

(6) Separate rules may be made under section eighteen of the Act of 1888 in reference to local land charges for giving effect to the provisions of this section and in particular for prescribing :—

(*a*) The mode of registration of a general or specific charge ;

(*b*) The power for a local authority where it has no means (without incurring unreasonable expense) of ascertaining the person against whom a specific charge should be registered, to register the same only against the land affected ;

(*c*) The proper officer to act as registrar, and as to official certificates of search to be given by him in reference to subsisting entries in his register ;

(*d*) The effect of an official certificate of search in regard to the protection of a purchaser, solicitor, trustee or other person in a fiduciary position, and the fees to be paid for any such certificate or search ;

(*e*) The fees (if any) to be paid for the cancellation of an entry in the register.

(7) For the purposes of this section, any prohibition of or restriction on the user or mode of user of land or buildings enforceable by any local authority by virtue of any such statute as aforesaid shall be deemed to be a restrictive covenant and where arising after the commencement of this Act shall be registered by the proper officer as a local land charge.

Provided that any such prohibition or restriction may be registered generally against the area or district affected by reference to the statute under which it is imposed.

Re-registration of deeds of arrangement.

3. The registration of a deed of arrangement affecting land, pursuant to section seven of the Act of 1888, shall cease to have effect at the expiration of five years from the date of registration, but may be renewed from time to time, and, if renewed, shall have effect for five years from the date of the renewal: Provided that nothing in this section shall affect any registration made before the commencement of this Act, until the expiration of one year from such commencement.

Saving of Crown rights and vacation of writs.

4.—(1) The foregoing provisions in this schedule shall bind the Crown, and accordingly land charges (including local land charges) belonging to or affecting land owned by the Crown shall be subject to the provisions relating to registration, but this section shall not operate to impose on land owned by or occupied for the purposes of the Crown any liability to which the land would not have been subject if this section had not been passed.

(2) The registration of a writ or order affecting land may be vacated pursuant to an order of the High Court or any Judge thereof.

(3) Section nineteen of the Settled Land Act, 1890, is hereby repealed.

EIGHTH SCHEDULE.

EPITOMES OF ABSTRACTS OF TITLE.

Section 27.

SPECIMEN No. 1.

OF THE TITLE OF JOHN WILLIAMS TO BLACKACRE.

WHERE THE TITLE COMMENCES BEFORE THE COMMENCEMENT OF THIS ACT.

The italics show how the abstract is to be framed and what documents are to be abstracted. After the commencement of this Act, the parts not in italics may be ignored.

Will of H. Jones, appointing Maria Jones and W. Jones executors and Settled Land Act trustees. — 10th June 1897.

Devises, Blackacre.

To the use that Maria Jones may receive a yearly rentcharge of five hundred pounds for her life, and, subject thereto,

To the use of W. Jones for life with remainder,

To the use of X. and Y., for a term of one thousand years, and subject thereto,

To the use of the first and other sons of W. Jones in tail with remainders over.

Trusts of term of one thousand years declared for raising ten thousand pounds for portions for younger children of W. Jones, as he shall appoint, and in default equally.

Hotchpot Clause. Power to appoint new trustees.

Death of H. Jones. — 4th June 1898.

Will of H. Jones proved. — 1st August 1898.

[NOTE.—After the execution of the Vesting Deed the will only takes effect in equity and can be withdrawn from the abstract when not required as a root of title.]

20th August 1899. *Conveyance by the executors to the uses of the Will.*

2nd September 1915. Appointment of R. and S. to be Settled Land Act trustees of the will in place of Maria Jones and W. Jones who retire.

1st January 1925. The Law of Property Act, 1922, comes into operation.

[NOTE.—If any bare legal estate is outstanding it will vest in W. Jones in fee simple.]

20th January 1925. *Deed by the Settled Land Act trustees vesting the fee simple in W. Jones on the trusts of the Will and appointing themselves Settled Land Act trustees.*

2nd February 1925. Appointment by W. Jones of five thousand pounds, part of the ten thousand pounds, to his daughter, Ann Jones.

3rd February 1925. Assignment by Ann Jones of her five thousand pounds, part of the ten thousand pounds raisable for portions, to trustees F. and G. on her marriage to J. Robinson.

4th February 1925. Will of W. Jones, appointing T. Brooks his executor.

6th March 1925. Death of W. Jones leaving three children, Frederick Jones, his eldest son, and E. Jones and Ann Robinson.

2nd April 1925. Disentail by Frederick Jones in trust for himself in fee simple.

3rd May 1925. *Will of W. Jones proved by R. and S. in regard to the settled land.*

6th June 1925. Mortgage by E. Jones of his one-half of the ten thousand pounds to K.

1st December 1925. Death of Maria Jones, jointress.

2nd January 1926. Release by F. and G. on payment to them of the five thousand pounds of Ann Robinson.

Same date. Release by E. Jones and K., his mortgagee, of the five thousand pounds raisable for E. Jones.

3rd January 1926. *Assent by R. and S., as personal representatives to Frederick Jones in fee, without appointing Settled Land Act trustees.*

[NOTE.—If the Assent had been made before the family charges had been cleared, the personal representatives would have nominated the trustees of the Will of H. Jones to be Settled Land Act trustees, and a discharge from them would have been required when the charges were cleared.]

Mortgage either by charge by way of legal mortgage or for a term of one thousand years by Frederick Jones to the Estate Trustees of the C. Assurance Society to secure five thousand pounds and interest. — 6th February 1926.

Second mortgage either by charge by way of legal mortgage or for a term of two thousand years by Frederick Jones to D., to secure three thousand pounds and interest. — 20th March 1926.

Third mortgage either by charge by way of legal mortgage or for a term of three thousand years by Frederick Jones to E., to secure two thousand pounds and interest. — 1st June 1926.

Conveyance by Frederick Jones on his marriage (subject to above mortgages) to M. and N. upon trust for sale, the proceeds of sale being settled by a deed of even date. — 8th August 1926.

Death of M. — 12th November 1926.

Appointment of F. as trustee of the conveyance on trust for sale in the place of M., and jointly with N. — 20th December 1926.

Conveyance by the then Estate Trustees of the C. Assurance Society, under their power of sale as first mortgagees, to John Williams in fee. — 10th June 1927.

[NOTE.—The title being made under the power of sale of the Estate Trustees, the fee simple passes and not merely the mortgage term. They can if desired convey the fee in the names of M. and N. It is unnecessary to disclose the second and third mortgages or the conveyance on trust for sale. It would have been necessary to disclose them if title had been made by the trustees for sale, as the mortgages and the conveyance all dealt with legal estates. The right to vest the debt and mortgaged property in Estate Trustees by memorial enrolled under a Private Act is preserved.

No evidence of deaths, births, &c., is required. Probate of the will of H. Jones is conveyancing evidence of his death.]

John Williams leaves the United Kingdom is believed to be alive but cannot be found. — 12th January 1928.

Private Act passed authorising the X. Company to acquire Blackacre under compulsory powers. — 10th August 1928.

15th June 1929. *Statutory declaration as to facts known with reference to John Williams.*

16th June 1929. *Deed Poll by X. Company (who by their agent also execute in the name of John Williams) under section seventy-seven of the Lands Clauses Consolidation Act*, 1845.

[NOTE.—This is an example of an exercise of a power over a legal estate the operation of which is expressly preserved.]

SPECIMEN NO. 2.

OF THE TITLE OF THE TRUSTEES OF FRANK SMITHERS TO GREENACRE.

RELATING TO UNDIVIDED SHARES.

2nd January 1910. *Mortgage by James Smith of Greenacre to M. Coy. Ltd. in fee to secure* 1,000*l. and interest.*

4th February 1910. *Will of James Smith devising Greenacre to his ten children named therein in equal shares and appointing E. to be his executor.*

1st March 1910. *Death of James Smith, leaving the ten children surviving.*

3rd April 1910. *Probate by E.*

4th December 1910. *Assent by E. to the devise to the ten children.*

5th January 1911. Mortgage by one of the sons of his tenth share.

15th April 1911. Conveyance by one of the daughters on her marriage of a tenth share to trustees on trust for sale, the net proceeds to be held on the trusts of her settlement of even date.

20th May 1911. Settlement by another of the sons of his tenth share and appointing Settled Land Act trustees.

8th June 1913. Will of another daughter devising her tenth to her husband and appointing him executor.

20th June 1913. Death of the testatrix.

Probate by her husband.	4th August 1913.
Death of another son intestate.	2nd May 1918.
Letters of administration granted to two of his brothers.	30th July 1918.
The Law of Property Act, 1922, comes into operation and vests Greenacre, subject only to the mortgage of 1910 affecting the entirety (which is converted into a mortgage for a term of three thousand years), in the Public Trustee, pending the appointment of new trustees, on trust for sale.	1st January 1925.
Order of the court (Chancery Division) made on the application of persons entitled to six tenths, appointing M. and N. to be trustees of the trust affecting Greenacre in place of the Public Trustee.	4th June 1925.
Conveyance on sale to Walter Robinson by M. and N., the M. Company, Limited, being paid off out of part of the purchase money, and joining to surrender the three thousand years term.	7th May 1926.
[NOTE.—The balance of the purchase money is available in the hands of the trustees to answer the claims of the mortgagee and other persons interested in undivided shares.]	
Will of Walter Robinson devising and bequeathing Greenacre and his residuary real and personal estate to X. and Y. upon trust for his son John Robinson for life with remainder upon trust for his first and other sons successively according to seniority in tail male with remainder upon trust for the same sons in tail general with remainder upon trust for all the daughters of John Robinson as tenants in common in tail with cross remainders in tail between them in equal shares. Appointment of X. and Y. to be executors and Settled Land Act trustees.	4th June 1926.
Death of testator.	1st December 1926.
Probate by X. and Y.	20th April 1927.
Assent by X. and Y. vesting the settled land in John Robinson upon the trusts of the will of Walter Robinson, and appointing themselves to be Settled Land Act trustees.	3rd May 1927.
Will of John Robinson appointing his daughters Mary Robinson and Jane Robinson his executors.	14th July 1927.
Death of John Robinson without having had a son and leaving five daughters.	16th March 1929.
Probate by X. and Y. in regard to the settled land.	12th June 1929.

25th July 1929. *Assent by X. and Y. to the vesting of the settled land in themselves on trust for sale, the net proceeds to be held on the trusts of the will of Walter Robinson.*

7th January 1930. *Conveyance on sale by X. and Y. of Greenacre to Frank Smithers in fee.*

8th January 1930. Equitable charge by Frank Smithers to James Montagu by way of indemnity and agreement to vest Greenacre in agreed trustees on trust for sale to raise the money when the amount is ascertained and for other purposes.

[NOTE.—A mere equitable charge not secured by deposit of documents can be overridden when the land is made subject to a trust for sale without joining the chargee.]

9th January 1931. *Lease by Frank Smithers of part of Greenacre to his wife for life at a rent.*

[NOTE.—A lease for life is made to take effect as a demise for a term of ninety years determinable by notice after the death of the lessee by his representatives or by the lessor.]

23rd June 1932. *Conveyance by Frank Smithers, of Greenacre, to trustees on trust for sale subject to the lease.* The net proceeds to be held on the trusts of a deed of even date, under which effect is given to the Agreement of 1930.

SPECIMEN NO. 3.

OF THE TITLE OF R. HORNE TO WHITEACRE.

WHERE THE TITLE COMMENCES AFTER THE COMMENCEMENT OF THIS ACT.

4th July 1925. *Settlement by John Wilson, being a deed declaring that Whiteacre is vested in himself in fee upon the trusts of a deed of even date.*

Appointment of R. and S. to be trustees for the purposes of the Settled Land Acts.

Provisions extending the powers conferred by the Settled Land Acts, so far as they relate to dealings with land, and giving power for John Wilson during his life to appoint new trustees.

Trust Deed.

Same date. Trusts declared for John Wilson for life, with remainder.

Upon trust that Elizabeth Wilson, if she survives him shall have a rentcharge of 200*l.* during the residue of her life, and subject thereto.

Upon trust for R. and S. for a term of five hundred years to raise five thousand pounds portions for younger children of John Wilson, with remainder.

Upon trust for Henry Wilson for life, with remainder.

Upon trust for H. and K. for a term of one thousand years to raise five thousand pounds portions for younger children of Henry Wilson, with remainder.

Upon trust for the first and other sons of Henry Wilson successively in tail, with further remainders over. Appointment of R. and S. to be Settled Land Act trustees. Extension of Settled Land Act powers by reference to the Vesting Deed of even date or otherwise. Power for tenant for life of full age to appoint new trustees.

Assignment by John Wilson of his life interest with policies to the Y. Company by way of mortgage which is paid off on his death out of the policy money. — 3rd August 1925.

[NOTE.—This gives to Y. Company the same rights to take possession as if the mortgage were of a legal life estate for the legal estate in fee simple is vested in John Wilson.]

Appointment of new trustee of five hundred years' term. — 4th September 1925.

Recites that S. is incapable of acting. Appointment by John Wilson of P. to be trustee of the term of five hundred years and for the purposes of the Trust Deed in the place of S. and jointly with R. Declaration (express or implied) vesting the equitable term of five hundred years in R. and P.

Appointment of new trustee, whereby John Wilson appoints P. to be trustee of the Vesting Deed in the place of S., and jointly with R. for the purposes of the Settled Land Acts. Memorandum of the appointment endorsed on the Vesting Deed. — Same date.

Will of John Wilson appointing Isaac James and Joseph James executors. — 7th January 1926.

Death of John Wilson, leaving younger children and his widow. — 3rd September 1926.

Will of John Wilson proved by R. and P. in regard to the settled land. — 4th April 1927.

Assignment by R. and P. to B. of term of five hundred years by way of mortgage for securing five thousand pounds and interest. — 1st October 1927.

[NOTE.—As money has been raised on the term the mortgagee could call on the executors to create a legal term for securing it in priority to the settlement.].

Assent by R. and P., as personal representatives, to the vesting of the settled land in Henry Wilson in fee upon the trusts of the Trust Deed. — 2nd December 1927.

Appointment of R. and P. to be trustees for the purposes of the Settled Land Acts. Power for Henry Wilson during his life to appoint new trustees.

The same provisions for extending powers conferred by the Settled Land Acts as are contained in the Vesting Deed.

[NOTE.—These may be inserted either expressly, if short, or by reference to the former Vesting Deed, if long.]

2nd June 1928. Appointment of James Cook and Harry Cook to be trustees of the Trust Deed.

2nd June 1928. *The like of the Vesting Deed.*

4th November 1928. Transfer of the mortgage for five thousand pounds by B. to C.

10th July 1929. Death of Henry Wilson, leaving Thomas Wilson, his eldest son, and two younger children.

1st October 1929. *Letters of Administration to the settled land of Henry Wilson granted to James Cook and Harry Cook.*

3rd November 1929. Disentail by Thomas Wilson.

4th November 1929. Release by C. on payment off of his mortgage debt of five thousand pounds and surrender of the equitable term of five hundred years.

10th November 1929. Death of Elizabeth Wilson.

[NOTE.—Though her jointure took effect in equity only she has power to create a term of years absolute for raising arrears of the jointure, and the estate owner would be bound to give legal effect to a mortgage of the term.]

20th November 1929. Release by two younger children of Henry Wilson of their portions.

Same date. Demise by Thomas Wilson to L. and M. for an equitable term of eight hundred years, subject to cesser on payment of five thousand pounds and interest.

Same date. *Demise by James Cook and Harry Cook to L. and M. for the term of eight hundred years, subject to the cesser on redemption or charge by way of legal mortgage.*

Same date. *Assent by them to the vesting of the settled land, subject to the term or legal charge, in Thomas Wilson in fee, without appointing Settled Land Act trustees.*

10th March 1930. *Conveyance by Thomas Wilson and L. and M. to R. Horne in fee.*

SPECIMEN NO. 4.

OF THE TITLE OF THE ADMINISTRATORS OF M. CURTIS TO RICH AND MIDDLE FARMS.

RELATING TO INFANTS.

Will of James Wilcox devising Rich Farm and Middle Farm to the use of his elder son John Wilcox (an infant) for his life with remainders over for the issue of John Wilcox which failed with remainder to the use of his younger son Gilbert Wilcox (an infant) for his life with remainders over. Appointment of X. and Y. to be executors and Settled Land Act trustees.	2nd January 1918.
Death of testator, leaving his two sons, giving dates of their births.	4th February 1918.
Probate by X. and Y.	12th May 1918.
Assent to the devise, John Wilcox being still an infant.	15th December 1918.
The Law of Property Act, 1922, comes into force and vests the settled land in X. and Y. as Settled Land Act trustees by reason of John Wilcox being an infant.	1st January 1925.
Death of John Wilcox a bachelor and an infant.	3rd June 1925.
Conveyance on sale of Rich Farm by X. and Y. to M. Curtis.	29th September 1925.
Conveyance by X. and Y. vesting Middle Farm in Gilbert Wilcox (who had attained full age) on the trusts of the will of James Wilcox and appointment of themselves as Settled Land Act trustees.	12th October 1925.
Conveyance on sale of Middle Farm by Gilbert Wilcox to M. Curtis, X. and Y. joining to receive the purchase money.	10th November 1925.
Will of M. Curtis purporting to appoint his infant son John Curtis executor.	1st February 1926.
Death of M. Curtis.	3rd April 1926.
Letters of administration with the will annexed granted to M. and N.	5th September 1926.

[NOTE.—Administration will either be granted to a trust Corporation or to not less than two individuals.]

SPECIMEN NO. 5.

OF THE TITLE OF GEORGE SMITH TO HOUSES IN JOHN STREET. RELATING TO LEASEHOLD PROPERTY.

25th March 1911. *Lease by Charles Robinson to Henry Chubb, of* 10 *to* 16 *(even numbers) John Street, in the city of X, for* 99 *years from date at a yearly rent of* 5*l. for each house.*

26th March 1911. *First Mortgage (by subdemise) by Henry Chubb to A. for the residue of the term less* 3 *days for securing* 3,000*l. and interest. Declaration by Henry Chubb that he holds the head term in trust for A. subject to redemption.*

Same date. *Second Mortgage (by subdemise) to B. for the residue of the term less* 2 *days for securing* 1,000*l. and interest. Declaration by Henry Chubb that (subject to the First Mortgage) he holds the head term in trust for B. subject to redemption.*

Same date. Third Mortgage (by subdemise) to C. for residue of term less 1 day for securing 500*l.* and interest.

24th December 1914. *Transfer of First Mortgage by A. to T. in trust for Henry Chubb, who pays off the First Mortgage debt.*

1st January 1925. The Law of Property Act, 1922, comes into operation.

It extinguishes the first mortgage term, because Henry Chubb was not entitled to keep it alive to the prejudice of his mesne incumbrancers.

1st July 1925. Order of Court directing Henry Chubb to hand over the Lease, First Mortgage, and Transfer of that Mortgage to B.

20th July 1925. *Assignment on sale by B., under his power, to George Smith.*

[NOTE.—This conveys the head term created by the Lease and extinguishes all the mortgage terms. The head term may, if desired, be conveyed in the name of Henry Chubb.]

NINTH SCHEDULE.

FORMS OF INSTRUMENTS.

Section 27.

FORM No. 1.

VESTING DEED FOR GIVING EFFECT TO A SETTLEMENT SUBSISTING AT THE COMMENCEMENT OF THIS ACT.

This Vesting Deed made [&c.] between X. of [&c.] and Y. of [&c.] (hereinafter called the Trustees) of the one part and T.L. of [&c.] of the other part.

[*Recite the Settlement under which T.L. is a tenant for life of full age in possession of the freeholds and leaseholds respectively described in the First and Second Schedules and has power to appoint new trustees, and the trustees are trustees for the purposes of the Settled Land Acts, also the request by T.L. that the trustees should execute the requisite vesting deed.*]

Now for giving effect to the requirements of the Law of Property Act, 1922, this deed witnesseth as follows:—

1. The trustees as Trustees hereby declare that—

All and singular the hereditaments and premises respectively mentioned in the First and Second Schedules hereto and all other (if any) the premises capable of being vested by this declaration which are now by any means subject to the limitations of the recited settlement shall forthwith vest in the said T.L. for all the estates terms or interests capable of being vested by this declaration and so as to bind all equitable interests and powers which by the said Act or otherwise are protected by the recited settlement.

2. The said T.L. shall stand possessed of the premises hereby vested upon the trusts and subject to the powers and provisions which under the recited settlement and by virtue of the said Act or otherwise the same ought to be held from time to time.

3. The trustees are the trustees hereof for all the purposes of the Settled Land Acts, 1882 to 1922.

4. [*Add any powers additional to the Settled Land Act powers which are conferred by the settlement and relate to the land.*]

5. [*Add the usual covenant by T.L. with the trustees to pay the rents, observe the lessee's covenants and keep the trustees indemnified.*]

6. The said T.L. during his life shall have power to appoint a new trustee or new trustees hereof.

In witness [&c.].

[NOTE.—Add the schedules. In the first part of the First Schedule give particulars of the manors, advowsons and other incorporeal hereditaments. In the second part give particulars of the freehold land referring, if practicable, to annexed plans, so that the vesting deed may ultimately become a convenient root of title. Unless this is done the deeds referred to will for purposes of the parcels remain part of the title. In the Second Schedule give particulars of the date, parties to the leases, short particulars of the property demised, terms and rents. If there are any legal mortgages having priority to the settlement these should be mentioned in another schedule and referred to in the recitals.]

FORM NO. 2.

VESTING DEED ON THE SETTLEMENT OF LAND.

This Vesting Deed made [&c.] between *John H.* of [&c.] of the first part, *Jane W.* of [&c.] of the second part, and X. of [&c.], Y. of [&c.], and Z. of [&c.] (hereinafter called the trustees) of the third part.

Witnesseth and it is hereby declared as follows:—

1. In consideration of the intended marriage between *John H.* and *Jane W.*, the said *John H.* as Settlor hereby declares that

All that (*setting out the parcels by reference to a schedule or otherwise*) are vested in *John H.* in fee simple (*or in the case of leaseholds refer to the terms*).

Upon the trusts declared concerning the same by a Trust Deed bearing even date with but intended to be executed immediately after these presents, and made between the same parties and in the same order as these presents or upon such other trusts as the same ought to be held from time to time.

2. The trustees are the trustees hereof for all the purposes of the Settled Land Acts, 1882 to 1922.

3. Notwithstanding any restriction contained in those Acts, the following powers additional to or larger than those conferred by those Acts, are conferred by the settlement on the said *John H.* or his personal representatives in reference to the premises hereby settled, and on the trustees, that is to say,

[*Here insert any additional powers that may be required in relation to the land*].

4. The said *John H.* during his life shall have power to appoint new trustees hereof.

In witness [&c.]

FORM NO. 3.

TRUST DEED ON THE SETTLEMENT OF LAND.

This Trust Deed made [&c.] between *John H.* of [&c.] (hereinafter called the Settlor) of the first part, *Jane W.* of [&c.] of the second part, and X. of [&c.], Y. of [&c.], and Z. of [&c.] (hereinafter called the trustees) of the third part.

Whereas these presents are supplemental to a deed (hereinafter called the Vesting Deed) bearing even date with but executed before these presents, and made between the same parties and in the same order as these presents, being a deed vesting certain hereditaments situated at in the county of in the Settlor Upon the trusts declared concerning the same by a trust deed of even date therein referred to (meaning these presents), and whereby the trustees were appointed trustees thereof for the purposes of the Settled Land Acts, 1882 to 1922, and certain powers were conferred in addition to the powers conferred by those Acts.

Now in consideration of the intended marriage between the Settlor and *Jane W.*, this Deed witnesseth as follows:—

1. The Settlor hereby agrees that he will hold the hereditaments comprised in the Vesting Deed In trust for himself until the solemnisation of the said marriage and thereafter Upon the trusts following, that is to say:—

2. Upon trust for the Settlor during his life without impeachment of waste with remainder Upon trust if *Jane W.* survives him that she shall receive out of the premises during the residue of her life a yearly jointure rentcharge of [&c.] and subject thereto Upon trust for the trustees for a term of 800 years from the date of the death of the Settlor without impeachment of waste Upon the trusts hereinafter declared concerning the same. And subject to the said term and the trusts thereof Upon trust for the first and other sons of the said intended marriage successively according to seniority in tail male with remainder [&c.] with an ultimate remainder in trust for the Settlor in fee simple.

[*Here add the requisite trusts of the portion's term, and any other proper provisions including the appointment of the*

trustees, as Settled Land Act trustees, extension of Settled Land Act powers either expressly or by reference to the Vesting Deed and a power for the tenant for life for the time being of full age to appoint new trustees.]

In witness [&c.].

[NOTE.—The Vesting Deed and Trust Deed can be executed as escrows till the marriage.]

FORM No. 4.

SUPPLEMENTAL VESTING DEED ON SALE WHEN THE LAND IS PURCHASED WITH CAPITAL MONEY.

This Supplemental Vesting Deed made [&c.] between *Henry V.* of [&c.] (hereinafter called the Vendor) of the first part, X. of [&c.], Y. of [&c.], and Z. of [&c.] (hereinafter called the trustees) of the second part, and *John H.* [&c.] (hereinafter called the Purchaser) of the third part.

Whereas the Vendor is entitled for an estate in fee simple in possession free from incumbrances to the hereditaments herein-after conveyed and has agreed to sell the same to the Purchaser at the price of pounds.

And whereas these presents are supplemental to a vesting deed (herein-after called the principal deed) dated [&c.], and made [&c.] [*Form No.* 2], being a deed vesting certain hereditaments in the Purchaser Upon the trusts of a trust deed of even date therewith, and by the principal deed the trustees were appointed to be the trustees thereof for the purposes of the Settled Land Acts, 1882 to 1922.

Now this Deed witnesseth as follows:—

1. In consideration of the sum of pounds now paid to the Vendor by the trustees by the direction of the purchaser (the receipt of which sum the Vendor hereby acknowledges) the Vendor as Beneficial Owner hereby conveys unto the Purchaser All those [&c.]

To hold unto the Purchaser [in fee simple] upon and subject to the same trusts and powers as are declared by the principal deed by reference as aforesaid with respect to the hereditaments therein comprised.

2. [*Insert nomination of the trustees to be trustees for the purposes of the Settled Land Acts.*]

3. [*And (by reference to the provisions contained in the principal deed) any subsisting extended powers.*]

4. [*Power for the purchaser during his life to appoint new trustees.*]

In witness [&c.]

NOTE.—On a purchase of a term of years absolute out of capital money, the term must be conveyed to the tenant for life, if any, of full age, instead of to the trustees of the settlement. If there is a minority the land will be conveyed to the personal representatives or to the Settled Land Act trustees.

FORM NO. 5.

CONVEYANCE BY PERSONAL REPRESENTATIVES OF A FEE SIMPLE RESERVING THEREOUT A TERM OF YEARS ABSOLUTE.

This Conveyance made [&c.] between *James Cook* of [&c.] and *Harry Cook* of [&c.] of the first part, L. of [&c.] and M. of [&c.] of the second part, and *Thomas Wilson* of [&c.] of the third part.

Whereas on the first day of October 1925 Letters of Administration to the real and personal estate of *Henry Wilson*, late of [&c.], who died [&c.], were granted by the principal probate registry to *James Cook* and *Harry Cook*.

And whereas *Henry Wilson* was at his death solely entitled to the hereditaments herein-after conveyed for an estate in fee simple.

Now this Deed witnesseth that *James Cook* and *Harry Cook*, as Personal Representatives of the said *Henry Wilson* deceased, hereby convey unto the said *Thomas Wilson* All that [&c.]

Reserving out of the premises nevertheless unto L. and M. a term of eight hundred years, without impeachment of waste, to commence from the date hereof but subject to cesser on redemption by *Thomas Wilson* under a Mortgage dated [&c.] and made between [&c.] on payment of the sum of five thousand pounds, and interest thereon at the rate of five pounds per centum per annum To hold the premises subject to the said term unto *Thomas Wilson* [in fee simple]. In witness [&c.]

NOTE.—The reservation will be valid at law, though the deed may not be executed by *Thomas Wilson*.

FORM NO. 6.

CONVEYANCE ON SALE RESERVING MINERALS AND RIGHT TO WORK AND A PERPETUAL RENTCHARGE.

This Conveyance made [&c.] between *A.* of [&c.] of the one part and B. of [&c.] of the other part.

Witnesseth that in consideration of the sum of pounds now paid by *B.* to *A.* (the receipt, &c.) and of the rentcharge herein-after reserved *A.* as Beneficial Owner hereby conveys unto *B.* All those [&c.] except and reserving unto *A.* in fee simple all mines and minerals Together with full power to work [&c.]

To hold (except and reserved as aforesaid) unto B. in fee simple reserving out of the premises and yielding and paying to A. in fee simple a perpetual yearly rentcharge of pounds, to be for ever charged upon and issuing out of the premises hereby conveyed clear of all deductions (except landlord's property tax), and payable by equal half-yearly payments on [&c.], the first payment to be made on [&c.]

And *B.* hereby covenants with *A.*, and the persons deriving title under him to pay [&c.]

In witness [&c.]

Note the reservations will be valid at law even if the deed is not executed by B.

FORM NO. 7.

DEED FOR CONFIRMING LEGAL ESTATES WHICH HAVE NOT BEEN VALIDLY CREATED.

To All to whom this Further Assurance shall come *A.B.* of, &c. sends greeting this day of 19 .

[*Recite the invalid dealings, giving short particulars in schedules of the Conveyances, Grants and Leases which purport to transfer or create legal estates, that A.B. is entitled in fee simple or for a term of years absolute in the land affected and desires to confirm the dealings.*]

Now these presents witness and the said *A.B.* hereby declares that his legal estate in the premises affected to which he is entitled as aforesaid shall go and devolve in such manner as may be requisite for legally confirming the interests capable of subsisting as legal estates expressed to have been transferred or created by the documents mentioned in the schedules hereto or any of those documents and any dealings

with the interests so confirmed which would have been legal if those interests had in the first instance been validly transferred or created:

Provided always that subject to such confirmation of interests and dealings nothing herein contained shall affect the legal estate of the said *A.B.* in the premises.

In witness, &c. [*Add schedules.*]

NOTE.—This form takes the place of a conveyance to uses for confirming past transactions and is applicable to a term of years absolute as well as a fee simple.

FORM NO. 8.

ASSENT BY PERSONAL REPRESENTATIVE.

I, *A.B.*, of [&c.] as the personal representative of *X.Y.*, late of [&c.] deceased, do this day of 19 hereby, As Personal Representative, assent to the vesting in *C.D.* of [&c.] of [All that farm &c.] *or* [All the property described in the Schedule hereto] for all the estate or interest of the said *X.Y.* at the time of his death [*or*, for an estate in fee simple].

[*Here, if a settlement is on foot, insert appointment of proper persons to be trustees for the purposes of the Settled Land Acts, a declaration of trust by C.D. to hold on the trusts of the Trust Deed or Will, also any additional powers and power to appoint new trustees, also add Schedule if required. If the land is to be held on trust for sale, add a declaration by the trustees that they hold the land on trust for sale and will stand possessed of the net proceeds on the trusts declared of the same by the Will or other settlement. Also add power to appoint new trustees corresponding to the power, if any, in the Will or settlement.*]

As witness, &c.

NOTE.—The expression "conveyance" includes an assent, but an assent will relate back to the death unless a contrary intention appears.

FORM NO. 9.

CHARGE BY WAY OF LEGAL MORTGAGE.

This Legal Charge made [&c.] between *A.* of [&c.] of the one part and *B.* of [&c.] of the other part.

[*Recite the title of A. to the freeholds or leaseholds in the Schedule and agreement for the loan by B.*]

Now in consideration of the sum of pounds now paid by *B.* to *A.* (the receipt &c.) this Deed witnesseth as follows :—

1. *A.* hereby covenants with *B.* to pay [*Add the requisite covenant to pay principal and interest*].

2. *A.* as Beneficial Owner hereby charges by way of legal mortgage All and Singular the hereditaments mentioned in the Schedule hereto with the payment to *B.* of the principal money, interest, and other money hereby covenanted to be paid by *A.*

3. [*Add covenant to insure buildings and any other provisions desired.*]

In witness [&c.] [*Add Schedule*].

NOTE.—*B.* will be in the same position as if a mortgage had been effected by a demise of freeholds or a subdemise of leaseholds.

Section 35.

TENTH SCHEDULE.

CONSEQUENTIAL AMENDMENTS OF THE SETTLED LAND ACTS, 1882 TO 1890.

Amendments consequential on Part I. of this Act.

1. The following provisions shall take effect as respects the Settled Land Acts, 1882 to 1890, in this Schedule referred to as the Acts :—

(1) In subsection (6) of section two of the Act of 1882 the words "as tenants in common or" and the words "or for other concurrent estates or interests" are hereby repealed, and all references in the Acts to undivided shares in land and to partitions of the settled land are likewise repealed :

(2) An express power to sell settled land which is not vested in the tenant for life of full age, or statutory owner, shall not be exerciseable in relation to the land, but the operation of such power to constitute persons to be trustees of the settlement shall remain unaffected ; and all powers (including powers conferred by other statutes in extension of the powers conferred by the Acts) to raise money by mortgage of the settled land shall be exerciseable by charge by way of legal mortgage or by demise or subdemise thereof :

(3) In clause (i) of subsection (10) of section two of the Act of 1882, in place of the words "also an undivided share" the words "but not an undivided share" are hereby substituted :

(4) Section nineteen and subsections (1) (2) and (3) of section twenty-four of the Act of 1882 are hereby repealed, and in subsection (4) of section twenty-four aforesaid the words "by purchase or in exchange" are hereby substituted for the words "as aforesaid," and references to "undivided shares" and to "partition" in that section are hereby repealed, and the words "in respect of money actually raised and remaining unpaid" are also repealed:

(5) The following enactment is hereby substituted for subsection (1) of section thirty-seven of the Act of 1882, namely:—

> "Where personal chattels are settled so as to devolve with settled land, a tenant for life of the land may sell the chattels or any of them."

(6) The words "trustee is a trust corporation" are hereby substituted for the words "settlement authorises the receipt of capital trust money of the settlement by one trustee" in subsection (1) of section thirty-nine of the Act of 1882; and the words "the trustee is a trust corporation" are hereby substituted for the words "a contrary intention is expressed in the settlement" in subsection (2) of section forty-five of the Act of 1882:

(7) Where an application is made to the court for the appointment of trustees of a trust deed or settlement, and a vesting instrument is subsisting, the court shall also have power to appoint trustees for the purposes of the Acts of the principal or only vesting instrument and of the supplemental vesting instruments, if any, referred to in the application; and may require a memorandum of the appointment to be endorsed thereon. References in the Acts to settlements and to trustees of settlements shall, in connexion with the appointment of trustees, extend to vesting instruments and to the trustees thereof:

(8) Section forty-four of the Act of 1882 shall apply to all questions or differences in relation to settled land which may arise under Part I. of this Act:

(9) The provisions of section fifty-one of the Act of 1882 shall apply to any matter which might induce a tenant for life of full age, or statutory owner, not to exercise his right to require the settled land to be vested in him:

(10) All powers which under section fifty-six of the Act of 1882 (as amended) could only be exercised in relation to the settled land with the consent of the tenants for life or one of them shall, after the commencement of this Act, be exerciseable by the tenant for life of

full age, or statutory owner, as if the same were additional powers within section fifty-seven of that Act:

(11) Clause (ix) of subsection (1) of section fifty-eight of the Act of 1882 does not apply where the land is subject to an immediate binding trust for sale:

(12) Sections fifty-nine and sixty of the Act of 1882 (as amended or extended by this Act) shall have effect subject to the provisions of this Act requiring the settled land during a minority to be vested in the statutory owner unless retained by a personal representative:

(13) Section sixty-three of the Act of 1882 and sections six and seven of the Act of 1884 are hereby repealed:

(14) The last paragraph of section nine of the Act of 1890, commencing with the words "and the rent-charge," is hereby repealed.

Amendments for the purposes of Parts V. and VI.

2. The following provisions shall, for the purposes of Parts V. and VI. of this Act, have effect as amendments of the Acts, namely:—

(1) References in the Acts to "enfranchisements" and to "sales" shall, after the commencement of this Act, extend to the extinguishment of manorial incidents:

(2) Where rights to manorial incidents are comprised in a settlement the tenant for life of full age, or statutory owner, may, as respects any fines payable in respect of an alienation in lieu of a fine payable for a licence authorising the alienation, agree the amount of the fine if the same is not fixed by the custom of the manor:

(3) Section fourteen and subsection (3) of section twenty of the Act of 1882 are hereby repealed:

(4) Any gross sum or an instalment thereof received in respect of the extinguishment of manorial incidents shall be capital money arising under the Acts:

(5) Capital money may be applied—

(*a*) In discharge of any fines payable in respect of the alienation of any settled land affected by manorial incidents;

(*b*) In payment of the gross sum or an instalment thereof payable as compensation for the extinguishment of manorial incidents affecting the settled land, and for the acquisition of any mines, minerals, and other rights of the lord or the owner of the land affected by the manorial incidents, and for the compensation of the steward;

(c) In redemption of any compensation rentcharge created in respect of the extinguishment of manorial incidents, and affecting the settled land;

(d) In payment of costs and expenses incidental to any of the above matters:

(6) The tenant for life of full age, or statutory owner, shall, in reference to a compensation agreement and to other incidental matters, have the powers conferred on him by the Law of Property Act, 1922, either as tenant for life of full age, or statutory owner, of the settled land affected by manorial incidents, or of the manor, or otherwise in right of the manorial incidents as the case may require:

(7) A tenant for life of full age, or statutory, owner may raise money in like manner as he is authorised to raise money by section eleven of the Act of 1890 (as amended) for any of the following purposes, namely:—

(a) For extinguishing any manorial incidents under the Law of Property Act, 1922; or

(b) For compensating the steward on the extinguishment of manorial incidents and for discharging the expenses incurred in connexion with the extinguishment; or

(c) For redeeming a compensation rentcharge created under the Law of Property Act, 1922, and affecting the settled land; and

(d) For discharging the money properly required for payment of the costs of any such transaction.

Amendments for the purposes of Part VII.

3. The following provisions shall, for the purposes of Part VII. of this Act, have effect as amendments of the Acts, namely:—

(1) Capital money may be applied—

(a) In commuting any additional rent made payable under Part VII. of the Law of Property Act, 1922, on the conversion of a perpetually renewable leasehold interest into a long term, and in satisfying any claim for compensation under that Act by any officer, solicitor, or other agent of the lessor in respect of fees or costs which would have been payable by the lessee or underlessee on any renewal;

(b) In payment of costs and expenses incidental to the above matters:

(2) In reference to the conversion of a perpetually renewable lease or underlease into a long term, a tenant for life of full age, or statutory owner, may enter into

such agreements and do such acts and things as the lessor or lessee or underlessee (as the case may require) is, by Part VII. of the Law of Property Act, 1922, authorised to enter into or do:

(3) A tenant for life of full age, or statutory owner, may raise money in like manner as he is authorised to raise money by section eleven of the Act of 1890 (as amended) for any of the following purposes, namely:—

(*a*) For commuting any additional rent made payable under Part VII. of the Law of Property Act, 1922, on the conversion of a perpetually renewable leasehold interest into a long term;

(*b*) For satisfying any claims for compensation under that Act by any officer, solicitor, or other agent of the lessor in respect of fees or costs which would have been payable by the lessee or underlessee on any renewal;

(*c*) For discharging the money properly required for payment of the costs of the transaction.

Section 82.

ELEVENTH SCHEDULE.

FORMS OF TRANSFER AND DISCHARGE OF MORTGAGES.

PART I.

FORM OF TRANSFER OF MORTGAGE.

This Transfer of Mortgage made the day of 19 . Between M. of [&c.] of the one part and T. of [&c.] of the other part, supplemental to a Mortgage dated [&c.], and made between [&c.], and to a Further Charge dated [&c.], and made between [&c.] affecting &c. (*here state short particulars of the mortgaged property*).

WITNESSETH that in consideration of the sums of £ and £ (for interest) now paid by M. to T., being the respective amounts of the mortgage money and interest owing in respect of the said mortgage and further charge (the receipt of which sums M. hereby acknowledges) M., as mortgagee, hereby conveys and transfers to T. the benefit of the said mortgage and further charge.

In witness, &c.

PART II.

FORM OF RECEIPT ON DISCHARGE OF A MORTGAGE. Section 84.

I, *A.B.*, of [&c.] hereby acknowledge that I have this day of 19 , received the sum of £ representing the [aggregate] [balance remaining owing in respect of the] principal money secured by the within [above] written [annexed] mortgage [and by a further charge dated, &c., *or otherwise as required*] together with all interest and costs, the payment having been made by *C.D.* of [&c.] and *E.F.* of [&c.]

As witness, &c.

NOTE.—If the persons paying are not entitled to the equity of redemption, state that they are paying the money out of a fund applicable to the discharge of the mortgage, see section 84 (2).

TWELFTH SCHEDULE. Section 128.

EFFECT OF ENFRANCHISEMENT.

(1) The following provisions shall, from and after the commencement of this Act, apply with respect to the enfranchised land:—

(*a*) The land shall be freehold land and be free from liability for forfeiture for the conveyance or attempted conveyance of an estate of freehold in the land, or for alienation without licence, whether by way of sale, lease, mortgage or otherwise:

(*b*) The tenant shall be free from the customary suits and services and from liability to do fealty:

(*c*) In place of the lord's right to escheat the Crown or the Duchy of Lancaster or the Duke of Cornwall (as the case may require) may become entitled to the land as bona vacantia under the provisions of Part VIII. of this Act:

(*d*) The land shall not be subject to the custom of borough English, or of gavelkind, or to any other customary mode of descent, or to any custom relating to dower or freebench or tenancy by the curtesy, or to any other custom whatsoever, but shall be governed as to descent on death and intestacy or partial intestacy and devolution on death by the provisions of Parts VIII. and IX. of this Act:

Provided that nothing in this paragraph with respect to dower, freebench, or curtesy shall apply to any person married before the commencement of this Act, unless in the case of dower or freebench the husband dies after the commencement of this Act, and in the case of curtesy, the wife dies after such commencement; but where a right to freebench has attached before the commencement of this Act which cannot be barred by a testamentary or other disposition made by the husband, then such right shall, unless released, remain in force in equity:

(*e*) The land shall (subject to the provisions of Part I. of this Act and of this Schedule) be held under the same title as that under which it was held at the commencement of this Act, and shall not be subject to any estate, right, charge, or interest affecting the manor:

(*f*) Every mortgage of the copyhold estate in the land shall become a mortgage of the land for a term of years absolute in accordance with the provisions of Part I. of this Act and accordingly:

(i) Where at the commencement of this Act a mortgage of the customary estate of inheritance in copyhold land effected by surrender, with or without admission, or by a covenant to surrender, is subsisting, then the mortgagee shall, by virtue of this Act, acquire a legal term of years absolute in the enfranchised land comprised in his mortgage subject to a proviso for cesser corresponding to the right of redemption subsisting under the mortgage;

(ii) Where at the commencement of this Act the copyhold land has been surrendered to the use of a mortgagee, without notice of a previous covenant to surrender contained in another mortgage, that mortgagee shall not be deemed to be a subsequent incumbrancer as respects the last-mentioned mortgage.

In this paragraph the expression "surrender" includes any other disposition which, when entered on the court rolls, operated as a surrender to the use of any person.

(2) The enfranchisement shall not, except as in this Act mentioned, affect the rights or interests of any person in the enfranchised land under a will, settlement, mortgage, or otherwise by purchase, but those rights and interests shall (subject to the provisions of Part I. of this Act) continue to attach upon

the land enfranchised in the same way as nearly as may be as if the freehold had been comprised in the instrument or disposition under which that person claims, and accordingly the enfranchised land shall (save as expressly provided by this Act) be subject to the same or corresponding trusts, powers, executory limitations over, rights and equities (if any) and to the same or corresponding incumbrances and obligations as affected the land immediately before the commencement of this Act:

Provided that (in the case of manors in which at the commencement of this Act it was the practice for copyholders in fee to grant derivative interests to persons admitted as copyholders of the manor in respect of those interests) the provisions of this paragraph as to the attachment of such rights and interests as aforesaid shall apply only to the estate of the copyholder in fee, but the enfranchisement shall enure for the benefit of the persons entitled to such derivative interests in manner hereinafter provided.

(3) Where the land is, at the commencement or by virtue of this Act, subject to any subsisting lease or demise, for a term of years absolute, the freehold into which the copyhold estate is converted shall be the reversion immediately expectant on the lease or demise, and the benefit of the rents and services reserved and made payable on, and the conditions in, or in respect of, the lease or demise, shall be incident and annexed to the reversion, and the burden of the covenants or agreements, expressed or implied, on the part of the lessor and lessee respectively shall run with the reversion and with the land respectively, and the enfranchisement shall not affect any right of distress, entry, or action accruing in respect of the lease or demise, and any lease or demise, otherwise than for a term of years absolute, shall take effect in equity only:

Provided that (in the case of manors in which it was the practice for copyholders in fee to grant derivative interests to persons admitted as copyholders of the manor in respect of those interests) this paragraph shall apply only in respect of leases or demises taking effect out of the estate of the copyholder in fee.

(4) An enfranchisement by virtue of this Act shall not deprive a tenant of any commonable right to which he is entitled in respect of the enfranchised land, but where any such right exists in respect of any land at the commencement of this Act it shall continue attached to the land notwithstanding that the land has become freehold.

(5) An enfranchisement by virtue of this Act of any land (including any mines and minerals hereinafter mentioned)

shall not affect any right of the lord or tenant in or to any mines, minerals, limestone, lime, clay, stone, gravel, pits, or quarries, whether in or under the enfranchised land or not, or any right of entry, right of way and search, or other easement or privilege of the lord or tenant in, on, through, over, or under any land, or any powers which in respect of property in the soil might but for the enfranchisement have been exercised for the purpose of enabling the lord or tenant, their or his agents, workmen, or assigns, more effectually to search for, win, and work any mines, minerals, pits, or quarries, or to remove and carry away any minerals, limestone, lime, stones, clay, gravel, or other substances had or gotten therefrom, or the rights, franchises, royalties, or privileges of the lord in respect of any fairs, markets, rights of chase or warren, piscaries, or other rights of hunting, shooting, fishing, fowling, or otherwise taking game, fish, or fowl:

Provided that the owner of the enfranchised land shall, notwithstanding any reservation of mines or minerals in this Act (but without prejudice to the rights to any mines or minerals, or the right to work or carry away the same), have full power to disturb or remove the soil so far as is necessary or convenient for the purpose of making roads or drains or erecting buildings or obtaining water on the land.

(6) An enfranchisement by virtue of this Act shall not affect any liability subsisting at the commencement of this Act (whether arising by virtue of a court leet regulation or otherwise) for the construction maintenance cleansing or repair of any dykes, ditches, canals, sea or river walls, piles, bridges, levels, ways and other works required for the protection or general benefit of any land within a manor or for abating nuisances therein; and any person interested in enforcing the liability may apply to the court to ascertain or apportion the liability and to charge the same upon or against the land or any interest therein: and the court may make such order as it thinks fit; and the charge when made by the order shall be deemed to be a land charge within the meaning of the Land Charges Registration and Searches Act, 1888 (as amended by any subsequent enactment), and may be registered accordingly; and, in addition, the jurisdiction of any court leet, customary or other court, in reference to the matter is hereby transferred to the court.

51 & 52 Vict. c. 51.

(7) A right preserved to the lord by virtue of this schedule shall not for the purposes of Part VI. of this Act be deemed to be a manorial incident unless it is otherwise agreed.

(8) On the enfranchisement of any land by virtue of this Act—

(*a*) If there is a copyholder in fee (not being a mortgagee) the freehold estate in fee simple shall vest (subject as provided in this schedule) in that person:

(*b*) If there is no copyholder in fee, or a mortgagee has been admitted, the freehold estate in fee simple shall (subject as provided in this schedule) vest in the person who immediately before the commencement of this Act had the best right to be admitted as copyholder in fee, or would have had such right if a mortgagee had not been admitted, but such person shall (save as hereinafter provided) be personally liable to pay the fines and fees which would have been payable by him on admittance; and if the last person who was admitted as copyholder in fee (not being a mortgagee) has died before the commencement of this Act (whether or not having disposed of the land by will), his personal representative shall be deemed to have had the best right to be admitted:

(*c*) In the case of manors in which it was the practice of copyholders in fee to grant derivative interests to persons who were admitted as copyholders of the manor in respect of those interests, the enfranchisement of the land, and vesting of the same in the copyholder in fee (not being a mortgagee) or other person entitled under this schedule shall enure for the benefit of every person having or entitled to acquire any customary estate or interest in the land, and every such person shall (without prejudice to the provisions of Part I. of this Act) become entitled to a legal estate (if the interest is capable of subsisting as a legal estate) or equitable interest in the enfranchised land corresponding to his former customary or other estate or interest, but subject to the manorial incidents affecting such estate or interest until the same are extinguished under Part VI. of this Act, and so that a mortgagee of the inheritance shall take only a term of years absolute:

(*d*) Where at the commencement of this Act the copyhold land was subject to interests affecting or derived out of the fee simple which are under this Act capable of subsisting at law, but immediately after such commencement were not capable of being overreached by virtue of a subsisting trust for sale or a settlement, the persons entitled shall (subject to the terms of years absolute of prior mortgagees) take legal estates in the enfranchised land corresponding to their former

equitable or other interests, but subject to the manorial incidents (if any) affecting such interests until the same are extinguished under Part VI. of this Act:

(*e*) If at the commencement of this Act there is a person entitled to a perpetually renewable lease in the copyhold land (not being a mortgagee) the freehold estate in fee simple shall vest (subject as provided in this schedule) in that person as if he had been a copyholder in fee:

Provided that—

(i) If a question arises as to who had the best right to be admitted as copyholder in fee, or has otherwise become entitled by virtue of this schedule to the freehold estate in fee simple, or to a derivative legal estate, the court, on the application of the lord of the manor or any person interested in the land, may declare who had the best right to be so admitted, or has become so entitled, or, in case the person who had the best right to be so admitted, or has become so entitled, cannot be found or ascertained, then on proof that such fines and fees as are made payable by this schedule have been paid or provision made for their payment, the court, on the like application, may make an order vesting the freehold estate in fee simple, or a derivative legal estate (subject to the reservation of any terms of years absolute required for giving effect to incumbrances) in such person as may be appointed by the court for the purpose (who shall, in the case of the fee simple, be deemed to have been admitted to the inheritance), but subject to the manorial incidents affecting the same until those incidents are extinguished under Part VI. of this Act, and the lord may be so appointed and in such case shall be deemed to have paid the fines and fees aforesaid; and

(ii) Where at the commencement or by virtue of this Act the copyhold land is settled land, the freehold estate in fee simple or derivative legal estate, as the case may be, shall (subject to the terms of years absolute of mortgagees having priority to the settlement) and without prejudice in equity to any incumbrance affecting any life estate or interest, vest in the tenant for life of full age or statutory owner (including a personal representative entitled to the settled land) upon such trusts and subject to such powers and provisions as may be necessary to give effect to the settlement, save that

a fee simple conditional (whether legal or equitable) on the birth of issue shall take effect as and be converted into an equitable entailed interest (either general or special as the case may require), if the fee has not become absolute; and

(iii) Where at the commencement of this Act the copyhold land or an equitable interest therein capable of subsisting as a legal estate was vested in an infant, the freehold estate in fee simple or derivative legal estate, as the case may be, shall (subject as aforesaid) vest in the personal representatives or trustees of the settlement, or other persons who, under Part I. of this Act, become entitled to the legal estate of the infant; and

(iv) Where at the commencement of this Act the copyhold land was held in undivided shares, the entirety of the freehold estate in fee simple shall (subject to any terms of years absolute required for giving effect to mortgages affecting the entirety), vest in trustees for sale in accordance with the provisions of Part I. of this Act; and

(v) Where at the commencement or by virtue of this Act the copyhold land was or is made subject to a trust for sale, the freehold estate in fee simple shall (subject to the terms of years absolute of mortgagees) vest in the trustees for sale in accordance with this Act; and

(vi) Where under the provisions of this schedule the freehold estate in fee simple is (subject or not to any mortgage term), made to vest in any person who was not the copyholder in fee at the commencement of this Act, then such person shall be deemed to have been admitted tenant to the inheritance immediately before such commencement, and such person shall (save as hereinafter provided) be personally liable to pay the fines and fees which would have been payable by him on admittance; and

(vii) If two or more persons together constitute the person who, immediately before the commencement of this Act, had the best right to be admitted as aforesaid, or in whom the freehold estate in fee simple is made, by virtue of this schedule, to vest without having actually been admitted as copyholders in fee, they shall not be personally liable under the foregoing provisions to pay any greater fines and fees than would have been payable if one of them only had been admitted tenant to the inheritance; and

(viii) If at the commencement of this Act there is a copyholder in fee (whether or not being a mortgagee) then notwithstanding that, by virtue of this Act, the freehold estate in fee simple is made to vest in some other person who has not been admitted to the inheritance, but is deemed to have been so admitted, no fines or fees shall be payable on that account; and

(ix) No fines or fees shall be payable by reason only of the vesting, by virtue of this Act, of a term of years absolute perpetual rentcharge or other derivative legal estate in the person entitled thereto, although he may not have been admitted at the commencement of this Act.

Section 138.

THIRTEENTH SCHEDULE.

COMPENSATION FOR EXTINGUISHMENT OF MANORIAL INCIDENTS.

PART I.

FORM No. 1.

COMPENSATION AGREEMENT.

Manor of , in the County of .

AN AGREEMENT made the day of 19 , BETWEEN *A.B.*, of &c. (Lord of the above-mentioned Manor) of the first part, *C.D.*, of &c. (Mortgagee of the said Manor) of the second part, *E.F.*, of &c., and *G.H.*, of &c. (Settled Land Act Trustees of the Vesting Deed affecting the said Manor) of the third part, *X.Y.*, of &c. (the Owner of the land described in the First Schedule hereto, formerly copyhold of the said Manor but now enfranchised by virtue of the Law of Property Act, 1922) of the fourth part, and *H.J.*, of &c. and *K.L.*, of &c. (Settled Land Act Trustees of the Vesting Deed affecting the said land), of the fifth part.

[NOTE.—In framing compensation agreements only the persons who on a sale of the manorial incidents and of the land affected would have been able to make a title thereto respectively and give a receipt for the purchase money will be made parties.]

WITNESSETH AS FOLLOWS:—

1. Pursuant to the Law of Property Act, 1922, it is agreed that the compensation for the extinguishment of the manorial incidents saved by Part V. of that Act affecting the said land [and of the rights of the lord in or to any mines and minerals in or under the said land and the sporting and other rights affecting the same preserved by the Twelfth Schedule to that Act] shall be the sum of
pounds with interest thereon payable half yearly at the rate of five and a half pounds per cent. per annum from the date hereof until paid [*or* the principal sum of
pounds to be paid by twenty equal instalments, the first instalment to be paid on the first day of January next with interest at five and a half per cent. per annum on the said principal sum from the date hereof and a further instalment with interest at the like rate on so much of the said principal sum as for the time being remains unpaid to be paid on every subsequent first day of January until the said principal sum shall be fully paid (all interest up to date being paid with the instalments) and so long as any of the said instalments and interest remain payable a terminable and variable rentcharge commencing from the date hereof and accruing from day to day but payable at the same time as the instalments and interest shall issue out of the said land [*or* the part of the said land described in the first part of the First Schedule hereto] of an amount equal to the said instalments and interest from time to time payable and so as to secure the same].

2. The said (*the person who retains the custody of the documents mentioned in the first part of the Second Schedule which relate to the manor*) hereby acknowledges the right of the said to production of the documents mentioned in the first part of the Second Schedule hereto and to delivery of copies thereof [and hereby undertakes for the safe custody thereof].

3. The said (*the person who retains the documents mentioned in the second part of the Second Schedule which relate to the land*) hereby acknowledges the right of the said to production of the documents mentioned in the second part of the Second Schedule hereto and to delivery of copies thereof [and hereby undertakes for the safe custody thereof].

4. The stewards compensation and all costs and expenses paid or incurred by the lord and recoverable from the tenant in respect of this extinguishment have been included in the compensation money aforesaid.

AS WITNESS the hands of the parties hereto the day and year first above written.

[NOTE.—If the compensation is not paid in one gross sum, then the agreement should be executed in duplicate. If the tenant releases his rights in the minerals and grants any facilities for working the same the release and grant may be inserted in the agreement which should then be executed under seal. Though the mines and minerals included in the copyhold tenement are enfranchised, the rights in relation thereto are not affected unless expressly included as in paragraph 1.

The undertaking in paragraphs 2 and 3 will be omitted where a mortgagee or trustee retains the documents.]

The FIRST SCHEDULE referred to in the above Agreement.

DESCRIPTION OF THE LAND AFFECTED BY THE MANORIAL INCIDENTS.

[NOTE.—This description will be taken from the Court Rolls, unless a new description is agreed to. In default of agreement the party requiring a plan or new description must bear any additional costs incident thereto.]

The SECOND SCHEDULE referred to in the above Agreement.

FIRST PART.

Particulars of documents relating to the said Manor and retained by the said .

SECOND PART.

Particulars of documents relating to the said land and retained by the said .

FORM No. 2.

RECEIPT FOR RENTS, &C. AND GROSS SUM TO BE ENDORSED ON THE COMPENSATION AGREEMENT.

The Manor of in the County of .

1. The within-named lord of the above-mentioned manor hereby acknowledges that all rents, fines, reliefs, heriots and fees payable in respect of the land referred to in the within Agreement have been duly discharged.

2. The said lord [*or* The within named and (as trustees for the purposes of the Settled Land Acts of the Vesting Deed affecting the said manor *or other*

the proper description of the persons who would be entitled to give a receipt for the proceeds of the sale if the manorial incidents were sold)] hereby acknowledge[s] the receipt of the Compensation money by the within written Agreement agreed to be paid and all interest (if any) due thereon.

Dated this day of 19 .

[NOTE.—Paragraph 2 will only be used when the compensation is paid in a single gross sum. If a rentcharge is created separate receipts must be given as and when each instalment is paid.]

PART II.

Section 139.

SCALE OF COMPENSATION FOR EXTINGUISHMENT OF MANORIAL INCIDENTS.

Fines Arbitrary.

1. In fine arbitrary cases where a fine is payable on alienation by, as well as on the death of, a tenant, the compensation for fines shall not exceed the number of years' annual value of the land according to the age of the tenant as set forth in the table annexed to this schedule.

2. The table is calculated on the principle that a fine based on two years' annual value is payable on each change of tenancy; therefore, in those manors in which the customary fine on alienation by, or on the death of, a tenant, is based on more or less than two years' annual value, a proportionate increase or reduction shall be made in the amount of the compensation.

3. In estimating the annual value of the land, no deduction shall be made for land tax or landlord's property tax, but the quit rent shall be deducted, and, where there are buildings, allowance shall be made for keeping the buildings in repair. In default of agreement the gross annual value of the land as separately assessed for the purposes of Schedule A. of the Income Tax Act, shall (save as hereinafter provided and unless the Minister for any special reason otherwise directs) be used as the basis for ascertaining the annual value: Provided that either party may in any case require the annual value to be assessed by an agreed valuer or by a valuer appointed by the Minister.

4. Where there are facilities for improvement or the land has a present or prospective building value, one twentieth part of the capital value of the land as freehold to be determined (in default of agreement) by a valuer appointed by the Minister, shall be used as a basis for ascertaining the annual value.

Fines Certain.

5. In fine certain cases where a fine is payable on alienation by, as well as on the death of, a tenant, the compensation for fines shall be calculated by multiplying the amount of the fine by one half of the number of years' purchase given in the table according to the age of the tenant.

Reliefs.

6. The amount of compensation for a relief shall be calculated in like manner as a fine certain.

Heriots.

7. The compensation for a heriot payable on alienation by, as well as on the death of, a tenant, shall be calculated by multiplying the value of the heriot by one half of the number of years' purchase given in the table according to the age of the tenant.

8. The value of a heriot shall be ascertained from the average value of the last three heriots taken or paid in respect of the land enfranchised. If that information cannot be obtained without undue expense the following circumstances shall be taken into account in fixing the value of the heriot, namely, the nature of the heriot, the character and value of the land, the condition in life of the tenant, and whether the heriot can be seized without as well as within the manor.

When Fine or Heriot payable only on one of the Events of Alienation or Death.

9. The table being calculated on the assumption that fines and heriots are payable both on alienation *inter vivos* by a tenant and on his death, when a fine, whether arbitrary or certain, or a heriot, is payable only on one of those events, then only one half of the compensation calculated as previously directed shall be given.

When Fine or Heriot payable on Death of Lord.

10. In manors in which fines or heriots are payable on the death of the lord, as well as on alienation by, or on the death of, a tenant, the compensation on the extinguishment of manorial incidents shall be increased according to the nature and amount of the customary fine or heriot payable in the manor on the death of the lord.

Quit Rents and other Annual Payments.

11. The compensation for quit rents, free rents, and other annual rents, services, or payments, shall be calculated at 20 years' purchase.

Timber.

12. Compensation for timber shall be ascertained as follows:—Where by a special custom of the manor the lord can enter upon the land, and cut and carry away the timber without the consent of the tenant, its whole value, after making a sufficient allowance for repairs, shall be given to the lord. But where there is no special custom, so that the ordinary law of copyholds is applicable and therefore the lord cannot enter and cut without the consent of the tenant, one half only of its value, after making a sufficient allowance for repairs, shall be given. If there be any other special custom in the manor relating to timber, such custom shall be regarded.

Other Incidents.

13. The compensation for all incidents of copyhold tenure extinguished or not saved by virtue of this Act and not otherwise provided for shall be 20 per cent. of the annual value of the land ascertained as provided in paragraphs 3 and 4.

This paragraph extends to forfeitures, whether or not for the conveyance or attempted conveyance of an estate of freehold in the land or for alienation without licence by way of sale, lease, mortgage, or otherwise:

Provided that, where by the custom of the manor the tenant has an unrestricted right of demising and otherwise dealing with the land without the licence of the lord, no compensation shall be payable under this paragraph unless the Minister otherwise determines; and where the unrestricted right relates to part only of the land the compensation shall be adjusted accordingly.

Perpetually Renewable Copyholds.

14. In the case of perpetually renewable copyhold land the compensation for the extinguishment of the manorial

incidents payable on renewal shall be 20 years purchase of the yearly rent (including additional rent) which would have been payable under the 15th Schedule to this Act if that Schedule were applicable, and until the incidents are extinguished the said rent (including as aforesaid) shall be payable as a quit or free rent in respect of the land, and except in so far as the same shall have been paid shall be added to the compensation.

Escheat and other Rights reserved.

15. The right of escheat being abolished for the benefit of the Crown, or the Duchy of Lancaster or the Duke of Cornwall, its value is not to be taken into consideration.

If any rights reserved to the lord by the Twelfth Schedule to this Act are acquired by the tenant, the amount of the compensation therefor shall be ascertained by agreement.

When Land held by joint Tenants or on behalf of Tenants in common.

16. In the case of an extinguishment of manorial incidents by joint tenants, the compensation for fines, and heriots, if any, shall be based upon such a single life as may be equivalent to the expectation of survivorship of the joint lives according to the rules and tables appended to the Succession Duty Act, 1853. This provision shall apply to an extinguishment of manorial incidents by trustees for sale (whose expectation of survivorship shall be taken into account) on behalf of persons interested as co-parceners or tenants in common in the net proceeds of sale.

Interest.

17. Interest shall be payable half-yearly on the amount of the compensation at the rate of five and a half pounds per cent. per annum from the date of the agreement or notice requiring the ascertainment of the compensation to the date of payment of the compensation, unless the compensation is paid by way of an annual terminable rentcharge under this Act.

Date of Computation.

18. The value of any matter to be taken into account in ascertaining the compensation payable shall be calculated as at the date of the extinguishment.

TABLE REFERRED TO IN THE FOREGOING SCHEDULE, PROVIDING A SCALE OF COMPENSATION FOR EXTINGUISHMENT OF MANORIAL INCIDENTS.

Age of Tenant.	Number of Years' Purchase.	Age of Tenant.	Number of Years' Purchase.	Age of Tenant.	Number of Years' Purchase.
5 or under	1·06	38	2·00	72	3·31
		39	2·03	73	3·35
		40	2·07	74	3·38
6	1·09	41	2·10	75	3·41
7	1·11	42	2·14	76	3·45
8	1·14	43	2·17	77	3·48
9	1·16	44	2·21	78	3·51
10	1·19	45	2·25	79	3·54
11	1·21	46	2·29	80	3·56
12	1·24	47	2·33	81	3·59
13	1·26	48	2·36	82	3·62
14	1·29	49	2·40	83	3·64
15	1·31	50	2·44	84	3·67
16	1·34	51	2·48	85	3·69
17	1·37	52	2·52	86	3·71
18	1·39	53	2·56	87	3·73
19	1·42	54	2·60	88	3·75
20	1·45	55	2·65	89	3·77
21	1·48	56	2·69	90	3·79
22	1·51	57	2·73	91	3·80
23	1·53	58	2·77	92	3·82
24	1·56	59	2·81	93	3·83
25	1·59	60	2·85	94	3·85
26	1·62	61	2·89	95	3·86
27	1·65	62	2·93	96	3·87
28	1·68	63	2·97	97	3·89
29	1·71	64	3·01	98	3·90
30	1·74	65	3·05	99	3·91
31	1·77	66	3·09	100	3·92
32	1·80	67	3·13	101	3·93
33	1·83	68	3·17	102	3·94
34	1·86	69	3·20	103 or upwards	3·96
35	1·90	70	3·24		
36	1·93	71	3·28		
37	1·96				

In constructing this Table a fine arbitrary on admission has been taken as based on two years' annual value, and whilst the average fine interval has been assumed to be 14 years, regard has been had to the age of the tenant.

Where the enfranchised land is by this Act made to vest in a corporation the same compensation shall be payable as if 40 years were the age of the tenant.

Section 139.

FOURTEENTH SCHEDULE.

SCALE OF STEWARD'S COMPENSATION FOR LOSS OF OFFICE.

In fine arbitrary cases.	In fine certain cases.	Amount of compensation to the steward.
Where the compensation to the Lord—	Where the compensation to the Lord—	£ s. d.
Does not exceed 1*l.* -	Does not exceed 12*s.* -	0 7 6
Exceeds 1*l.* but does not exceed 5*l.*	Exceeds 12*s.* but does not exceed 3*l.*	0 15 0
Exceeds 5*l.* but does not exceed 10*l.*	Exceeds 3*l.* but does not exceed 6*l.*	1 10 0
Exceeds 10*l.* but does not exceed 15*l.*	Exceeds 6*l.* but does not exceed 9*l.*	3 0 0
Exceeds 15*l.* but does not exceed 20*l.*	Exceeds 9*l.* but does not exceed 12*l.*	4 10 0
Exceeds 20*l.* but does not exceed 25*l.*	Exceeds 12*l.* but does not exceed 15*l.*	6 0 0
Exceeds 25*l.* but does not exceed 50*l.*	Exceeds 15*l.* but does not exceed 30*l.*	9 0 0
Exceeds 50*l.* but does not exceed 100*l.*	Exceeds 30*l.* but does not exceed 60*l.*	10 10 0
For every additional 25*l.* or fractional part of 25*l.* over and above the first 100*l.*	For every additional 15*l.* or fractional part of 15*l.* over and above the first 60*l.*	0 7 6

1. A steward appointed after the passing of this Act shall not be entitled to compensation for loss of office.

2. Where the compensation agreement, or notice to ascertain the compensation, relates to more than one tenement, the steward's compensation shall be calculated on the amount of the compensation payable to the lord under the agreement or notice.

3. The remuneration of solicitors in connexion with the extinguishment of manorial incidents shall from time to time be prescribed and regulated by general orders made by the Committee in England constituted or nominated under section two of the Solicitors Remuneration Act, 1881, and that the

Act shall apply accordingly, and, if any dispute arises as to costs or expenses, the same shall be taxed by the registrar of the county court.

4. Where the lord is a solicitor, he shall, if he acts for himself, be entitled to costs and expenses in place of the steward, but (there being no steward) not to any steward's compensation unless otherwise agreed.

FIFTEENTH SCHEDULE.

Section 145.

PROVISIONS RELATING TO PERPETUALLY RENEWABLE LEASES AND UNDERLEASES.

Conversion of perpetually renewable leases into long terms.

1.—(1) Land comprised in a perpetually renewable lease which was subsisting at the commencement of this Act shall, by virtue of this Act, vest in the person who at such commencement was entitled to such lease, for a term of two thousand years, to be calculated from the date at which the existing term or interest commenced, at the rent and subject to the lessees' covenants and conditions (if any) which under the lease would have been payable or enforceable during the subsistence of such term or interest.

(2) The rent, covenants and conditions (if any) shall (subject to the express provisions of this Act to the contrary) be payable and enforceable during the subsistence of the term created by this Act; and that term shall take effect in substitution for the term or interest created by the lease, and be subject to the like power of re-entry (if any) and other provisions which affected the term or interest created by the lease, but without any right of renewal.

Conversion of perpetually renewable underleases into long terms.

2.—(1) Land comprised in any underlease, which at the commencement of this Act was perpetually renewable and was derived out of a head term affected by this Act, shall, by virtue of this Act, vest in the person who at such commencement was entitled to the subterm or interest for a term of two thousand years less one day, to be calculated from the date at which the head term created by this Act commenced, at the rent and subject to the underlessee's covenants and conditions (if any) which under the underlease would have been payable or enforceable during the subsistence of such subterm or interest.

(2) The rent, covenants and conditions (if any) shall (subject to the express provisions of this Act to the contrary) be payable and enforceable during the subsistence of the subterm created by this Act; and that subterm shall take effect in

substitution for the subterm or interest created by the underlease, and be subject to the like power of re-entry (if any) and other provisions which affected the subterm or interest created by the underlease, but without any right of renewal.

(3) The foregoing provisions of this section shall also apply to any perpetually renewable subterm or interest which, at the commencement of this Act, was derived out of any other subterm or interest, but so that in every case the subterm created by this Act shall be one day less in duration than the derivative term created by this Act, out of which it takes effect.

Incidence of equities, incumbrances, and subterms.

3.—(1) Every term or subterm created by this Part of this Act shall be subject to all the same trusts, powers, executory limitations over, rights and equities (if any), and to all the same incumbrances and obligations of every kind, as the term, subterm, or other interest which it replaces would have been subject to if this Part of this Act had not been passed, but without prejudice to the provisions of Part I. of this Act, and where an infant is entitled, the person, of full age, who by virtue of that part of this Act, becomes entitled to the legal estate of the infant shall be deemed to have been entitled to the said lease, subterm or interest at the commencement of this Act.

(2) Where any subterm or interest, subsisting at the commencement of this Act, was derived out of a lease or underlease affected by this Act, but was not perpetually renewable, the same shall be deemed to take effect out of the term created by this Act or out of any derivative subterm so created, as the case may require.

Title acquired and stamps.

4.—(1) This Part of this Act shall not operate to confer any better title to any term or subterm hereby created than the title to the perpetually renewable term, subterm, or interest which it replaces.

(2) This Act shall not render any lease or instrument which has been duly stamped according to the law in force at its date, liable to be further stamped, nor shall any stamp duty be payable by reason only of the creation by this Act of any term or subterm.

Dispositions purporting to create perpetually renewable leaseholds.

5. A grant, after the commencement of this Act, of a term, subterm, or other leasehold interest with a covenant or obligation for perpetual renewal, which would have been valid if this Part of this Act had not been passed, shall (subject to the express provisions of this Act) take effect as a demise for a term of two thousand years or in the case of a subdemise for a term less in duration by one day than the term out of which it is derived, to commence from the date fixed for the commencement of the term, subterm, or other interest, and in

every case free from any obligation for renewal or for payment of any fines, fees, costs, or other money in respect of renewal.

Satisfaction of existing contracts to grant perpetually renewable interests.

6.—(1) Any obligation in force at the commencement of this Act for the grant (otherwise than by way of renewal) of a lease, subterm, or other leasehold interest with a covenant or obligation for perpetual renewal shall be deemed to be an obligation for the grant of a lease for a term of two thousand years, or, in the case of an underlease, for a term less in duration by one day than the term out of which it is to be derived, but the amount of the rent to be paid shall, if necessary, be adjusted, having regard to the loss of fines and other payments (if any) which would have been payable on renewal.

(2) In case any dispute arises respecting the adjustment of the rent, the matter shall be submitted to the Minister for determination, in the manner provided by this Act.

Future contracts for renewal and as to leases for lives.

7.—(1) Any contract entered into after the commencement of this Act, for the grant of a lease, subterm, or other leasehold interest with a covenant or obligation for perpetual renewal shall (subject to the express provisions of this Part of this Act) operate as an agreement for a demise for a term of two thousand years, or in the case of a contract for a subdemise, for a term less in duration by one day than the term out of which it is derived, to commence from the date agreed for the commencement of the term, subterm or other interest, and in every case free from the obligation for renewal or for payment of any fines, fees, costs or other money in respect of renewal.

(2) Any contract entered into after such commencement for the renewal of a lease or underlease for a term exceeding sixty years from the termination of the lease or underlease, and whether or not contained in the lease or underlease, shall (subject to the express provisions of this Part of this Act) be void.

(3) Any lease or underlease, at a rent, or in consideration of a fine, for life or lives or for any term of years determinable with life or lives, or on the marriage of the lessee, or any contract therefor, made before or after the commencement of this Act, or created by virtue of Part V. of this Act, shall take effect as a lease, underlease or contract therefor, for a term of ninety years determinable after the death or marriage (as the case may be) of the original lessee, or of the survivor of the original lessees, by at least one month's notice in writing given to determine the same on one of the quarter days applicable to the tenancy, either by the lessor or the persons deriving title under him to the person entitled to the leasehold interest, or if no such person is in existence by affixing the same to the premises, or by the lessee or other persons in whom the leasehold interest is vested to the lessor or

the persons deriving title under him; but this subsection does not apply to any term taking effect in equity under a settlement or created out of an equitable interest under a settlement for mortgage indemnity or other like purposes. The person in whom the leasehold interest is vested by virtue of Part V. of this Act shall, for the purposes of this subsection, be deemed an original lessee:

Provided that, if the lease, underlease, or contract therefor is made determinable on the dropping of the lives of persons other than or besides the lessees, then the notice shall be capable of being served after the death of any person or of the survivor of any persons (whether or not including the lessees) on the cesser of whose life or lives the lease, underlease, or contract is made determinable, instead of after the death of the original lessee or of the survivor of the original lessees.

Effect of powers to grant renewable leases.

8.—(1) Every power conferred by custom or contained in a statute (except as hereinafter mentioned) or other instrument authorising a tenant for life of full age, statutory owner, trustee, or other person to grant a lease or underlease with a covenant or obligation for perpetual renewal, shall have effect, in regard to any grant made after the commencement of this Act, as if the same authorised the grant of a lease or underlease for a term not exceeding two thousand years at the best rent that can be reasonably obtained, having regard to any fine which may be taken and to all the circumstances of the case, or, if the power authorises a grant at a peppercorn rent or other rent less than the best rent, then at any rent so authorised.

(2) Every power to grant a lease or underlease at a rent or in consideration of a fine for life or lives, or for any term of years determinable with life or lives or on the marriage of any person, shall have effect in regard to any grant made after the commencement of this Act, as if the same authorised the grant of a lease or underlease for a term not exceeding ninety years determinable after the death or marriage (as the case may be) of the original lessee or of the survivor of the original lessees by at least one month's notice in writing given to determine the same on one of the usual quarter days, either by the lessor or the persons deriving title under him to the person entitled to the leasehold interest, or by the lessee or other persons in whom the leasehold interest is vested to the lessor or the persons deriving title under him.

Saving of rights and powers under 8 Edw. 7. c. 36.

9. Nothing in this Act shall prejudicially affect any right of renewal conferred by section forty-four of the Small Holdings and Allotments Act, 1908, or the power conferred by section forty of that Act, to grant leases for the purposes of that Act, with a similar right of renewal.

Powers and covenants implied in leases and underleases affected.

10.—(1) Every lease or underlease which, by virtue of this Part of this Act, takes effect for a term of two thousand years or for a derivative term of two thousand years less one or more days (as the case may require) shall be deemed to contain—

(i) A power (exerciseable only with the consent of the persons, if any, interested in any derivative interest which might be prejudicially affected) for the lessee or underlessee by giving notice in writing to the lessor at least ten days before the lease or underlease would (but for this Act) have expired if it had not been renewed after the commencement of this Act, to determine the lease or underlease at the date on which (but for this Act) it would have expired if it had not been renewed as aforesaid;

Also a like power (exerciseable with the like consent if any) to determine subsequently by notice as aforesaid the lease or underlease at the time at which, if this Act had not been passed and all renewals had in the meantime been made in due course, the lease or underlease would have expired if it had not been further renewed after the date of the notice:

Provided that if any such notice be given all uncommuted additional rent attributable to a fine or other money which, if this Act had not been passed, would have been payable on a renewal made after the date of the notice, shall not become payable:

(ii) A covenant by the lessee or underlessee to register every assignment or devolution of the term or subterm, including all probates or letters of administration affecting the same, with the lessor or his solicitor or agent, within six months from the date of the assignment, devolution, or grant of probate or letters of administration, and to pay a fee of one guinea (which shall be accepted in satisfaction of all costs) in respect of each registration; and the covenant so deemed to be contained shall be in substitution for any express covenant to register with the lessor or his solicitor or agent, assignments or devolutions of the term or subterm, and to pay fees or costs in respect of such registration:

(iii) A covenant by the lessee or underlessee within one year from the commencement of this Act to produce his lease or underlease or sufficient evidence thereof (including an assignment of part of the land comprised in the lease or underlease) with any particulars required to show that a perpetual right of renewal was subsisting at the commencement of this Act, to the lessor or his solicitor or agent, who shall, subject to the payment of his costs, if the right

of renewal is admitted or proved, endorse notice of that fact on the lease, underlease, assignment, or copy thereof, at the expense of the lessee or underlessee; and such endorsement signed by or on behalf of the lessor shall, in favour of a purchaser, be sufficient evidence that the right of renewal was subsisting as aforesaid, either in respect of the whole or part of the land as the case may require:

and the power of re-entry (if any) contained in the lease or underlease shall apply and extend to the breach of every covenant deemed to be contained as aforesaid.

(2) If any dispute arises respecting the date on which a notice is authorised to be served by this section, or whether or not a lease or underlease or assignment or a copy thereof ought to be endorsed as aforesaid, the matter shall be submitted to the Minister for determination in the manner provided by this Act.

Liability of lessees and underlessees.

11.—(1) In the case of every term or subterm created by this Act or under any power conferred by this Part of this Act, each lessee or underlessee, although he may be the original lessee or underlessee, and notwithstanding any stipulation to the contrary, shall be liable only for rent accruing and for breaches of covenants or conditions occurring while he or his personal representatives shall have the term or subterm vested in him or them, and in like manner, as respects an original lessee or underlessee, as if the term or subterm had, immediately after its creation, been assigned to him.

(2) Nothing in this Part of this Act shall affect the liability of any person in respect of rent accruing or the breach of any covenant or condition occurring before the commencement of this Act.

Conversion of fines into additional rent.

12.—(1) Where, under the lease, underlease, or otherwise, any fine or other money, including a heriot, is payable by the lessee or underlessee on renewal, then and in every such case the like amount as would have been payable if this Act had not been passed and the lease or underlease or all successive leases or underleases have been renewed in due course shall, save as in this Act provided and unless commuted, become payable to the lessor as additional rent, during the subsistence of the term or subterm created by this Act, by as nearly as may be equal yearly instalments the first instalment to be paid at the end of one year from the commencement of this Act; but no sums payable for costs of examination of the lessee's or underlessee's title or of granting a new lease or underlease or of any other work which is rendered unnecessary by this Act shall be taken into account in ascertaining the additional rent.

(2) Where the lessee or underlessee was entitled to renew at different times and the amount payable on renewal varied according to the time selected for renewal under a sliding scale

or otherwise, then for the purpose of ascertaining the amount of the annual instalments of additional rent the fines and other payments shall be deemed to have been payable on the last day on which the lessee or underlessee would have been entitled to renew the lease or underlease if it had remained renewable, regard being had to the date of the last renewal.

(3) But where the time at or within which the said fine or other money must be paid is not definitely fixed by or ascertainable from the lease or underlease the same shall, for the purpose of ascertaining the amount of the annual instalments of additional rent, be deemed to have been payable on such date as may, within one year from the commencement of this Act, be agreed between the lessor and the lessee or underlessee and, in default of such agreement, as may be fixed by the Minister.

(4) The additional rent shall be deemed part of the rent reserved by the lease or underlease for all purposes, including any covenant for payment of rent or proviso for re-entry contained in the lease or underlease.

(5) Subject to any order by the Minister or the court to the contrary, and in default of agreement, the amount of each annual instalment of additional rent shall be ascertained by dividing the aggregate amount payable by the lessee or underlessee on renewal by the number of years which represents the interval or average interval occurring between the dates of renewal.

(6) If the lessee or underlessee is liable to forfeit his right of renewal if he makes default in payment of a fine or other money or in doing any other act or thing within a time ascertainable by the dropping of a life, but not otherwise, then five per cent. of the annual value of the land (ascertained as provided by this Act in the case of enfranchised land for the extinguishment of manorial incidents) shall be treated as added to the fines and other money payable by the lessee or underlessee on renewal for the purpose of ascertaining the amount of the annual instalment of additional rent, and as compensation to the lessor for loss of his right of re-entry (present or future) which would have accrued by reason of any failure to exercise the right of renewal.

Interest on fines.

13.—(1) Where, under the lease or underlease, any unpaid fine or other money payable on a renewal carries interest, then any annual instalment of additional rent payable in lieu thereof shall, until paid, carry interest from the date on which the instalment becomes payable, and at the same rate at which such interest would have been payable if this Act had not been passed.

(2) Where the lease or underlease does not provide for payment of such interest, then each annual instalment of additional rent shall, until paid, carry interest at the current rate from the time when demand in writing is made claiming the money.

Provisions respecting commutation of additional rent and other matters.

14.—(1) The lessor and lessee or underlessee may agree—

(*a*) For the commutation or discharge of any claims in respect of additional rent;

(*b*) The amount (if any) of the annual instalments of additional rent payable;

(*c*) The dates for payment of additional rent;

(*d*) The interval or average interval between dates of renewal;

(*e*) The dates on which the lessee or underlessee has power under this Act to determine the lease or underlease;

(*f*) The amount of the rent (including the annual instalments of additional rent) to be apportioned in respect of any part of the land comprised in the lease or underlease, and thereupon the lessee's or underlessee's covenants shall be apportioned in regard to the land to which the apportionment relates.

(2) A statement in writing respecting any such agreement, which is endorsed on any such lease or underlease, or the counterpart or assignment, and signed by the lessor and lessee or underlessee, shall be conclusive evidence of the matters stated, and the costs of and incidental to the agreement and any negotiations therefor shall be borne by the lessee or underlessee.

(3) The additional rent may, by such endorsement, be made payable by instalments at the times at which the original rent is made payable or otherwise.

Compensation of lessor's agents.

15. Any claims for compensation by any officer, solicitor, or other agent of the lessor in respect of fees or remuneration (not being remuneration attributable to work rendered unnecessary by this Act) which would have been payable by the lessee or underlessee on any renewal, if this Act had not been passed, shall be treated as part of the fines or other money payable to the lessor and be discharged out of the additional rent or commutation money or otherwise by the lessor, and the lessee or underlessee shall not otherwise be concerned therewith.

Disputes to be submitted to the Minister.

16.—(1) If the lessor and lessee or underlessee or the lessor's agent (as the case may require) do not agree, or any dispute arises as to the amount or date for payment of any annual instalment of additional rent, or the amount for which the same ought to be commuted, or the amount at which any rent ought to be adjusted, or apportioned, or the amount of compensation (if any) payable by the lessor to his officer, solicitor or other agent, the question or dispute shall be submitted to the Minister for determination, when the parties may be represented by solicitors or counsel, and the award of the Minister shall (subject only to such appeal to the court as may be prescribed by rules of court) be final.

(2) The Minister may issue regulations in respect of any of the matters aforesaid, and determine by whom and in what proportions the cost of any application to the Minister shall be paid.

(3) If a dispute as to the amount for which any annual instalment of additional rent ought to be commuted is submitted to the Minister, and if the lessor would (under the lease or under lease subsisting at the commencement of this Act, or any lease or underlease which would have been subsisting if this Act had not been passed and the successive renewable leases or underleases had been renewed in the ordinary course) have had a right to refuse renewal by reason of a default in payment of a fine, then the Minister shall, in the arbitration, have regard to the value of such right (unless compensation has been given for the loss of the right) in like manner as if a corresponding absolute right to determine the term or subterm created by this Act had, by reason of a corresponding default, been made exerciseable by the lessor at the time at which the renewable lease or underlease would have expired if the lessor had lawfully refused to renew it.

Power to raise and apply capital for commuting additional rent.

17.—(1) A power authorising a tenant for life of full age, statutory owner, trustee, or other person to apply or direct the application of or raise any money for or in the discharge of the costs, fines, and other sums payable on the renewal of any such lease or underlease shall be deemed to authorise the payment, application, or raising of money for the commutation of any additional rent made payable by this Act.

(2) Out of the money so applicable or raiseable, the lessor may discharge any compensation payable to his officer, solicitor, or other agent.

(3) If the reversion is settled land, or held on trust for sale, any commutation money shall be treated as capital money or proceeds of sale arising from such land (as the case may require).

(4) If the land comprised in the lease or underlease is settled land or held on trust for sale, the commutation money may be paid out of capital money or personal estate (not being chattels real) held on the same trusts as the land.

Notices.

18. The provisions of section sixty-seven of the Conveyancing Act, 1881, shall apply to any notice required or authorised to be given under this Part of this Act or under any provision implied by this Part of this Act.

Registered leases and underleases.

19. Where any lease or underlease to which this Part of this Act applies is registered under the Land Transfer Acts, effect shall be given to the provisions of this Act by making such alterations in the register as may be prescribed under those Acts.

Office copies and searches.

20.—(1) The original or counterpart of any lease or underlease or assignment to which this Part of this Act applies may be deposited at the Central Office of the Supreme Court.

(2) A separate file of instruments so deposited shall be kept, and any person who furnishes the prescribed evidence to show that he has a sufficient interest in the lease or underlease or reversion expectant thereon may search that file and inspect the lease or underlease or counterpart or assignment, and an office copy thereof shall be delivered to him at his request.

(3) A copy of an instrument so deposited, with any plan or endorsements thereon, may be presented at any time at the Central Office, and, if found correct, may be stamped as an office copy, and when so stamped shall become and be an office copy.

(4) An office copy of the instrument so deposited with the plan and endorsements (if any) shall without further proof be sufficient evidence of the contents of the instrument, plan, and endorsements (if any), and of the deposit thereof at the Central Office.

(5) Where an instrument so deposited has perished or become undecipherable, an office copy thereof may be similarly deposited, and office copies thereof may be issued in lieu of office copies of the original, and the provisions of this section shall apply thereto as if office copies so issued were office copies of the original instrument.

(6) General rules may be made for the purposes of this section prescribing the evidence to be furnished before a search is authorised, regulating the practice of the Central Office, and prescribing, with the concurrence of the Treasury, the fees to be taken therein.

Section 166.

SIXTEENTH SCHEDULE.

AMENDMENTS OF THE LAND TRANSFER ACTS.

PART I.

AMENDMENTS AND REPEALS OF THE ACT OF 1875 AS VARIED BY THE ACT OF 1897.

Sections referred to.

1. References to sections in this Part of this Schedule shall be construed as references to sections of the Act of 1875 unless the contrary is stated.

Definitions.

2.—(1) Section two is hereby repealed.

(2) In the Acts, unless the context otherwise requires,—

Words defined in Law of Property Act, 1922.

"Legal estate," "term of years absolute," "land," "mines and minerals," "tenant for life of full age," "statutory owner," "settled land," "settlement," "vesting deed," "vesting order," "vesting assent," "vesting instrument," "trust deed," "trustees of

the settlement," "personal representative," "capital money," "trust for sale," "trustees for sale," "defective," "instrument," "charge by way of legal mortgage," "Gazette," "possession," "income," "court," "death duty," "local land charge," and "manorial incidents" have the same meanings as in the Law of Property Act, 1922;

Settled Land Acts.

"Settled Land Acts" mean the Settled Land Acts, 1882 to 1922, or any Act amending or consolidating the same;

Proprietor.

"Proprietor" means the registered proprietor for the time being of land or a charge;

Registered land.

"Registered land" includes any easement, right, privilege, or benefit which is appurtenant or appendant thereto, and any mines and minerals within or under the same and held therewith;

Registered estate and charge.

"Registered estate," in reference to land, means the legal estate, or other registered interest (if any) for the time being held by the person who is registered as proprietor of the land, and a "registered charge" includes a mortgage or incumbrance registered as a charge;

Overriding interests.

"Overriding interests" mean all the incumbrances, interests, rights, and powers (except minor interests protected on the register) which by the Acts are made paramount to the registered estate and subject to which registered dispositions are to take effect, and include the matters which are by section eighteen (as amended) or otherwise declared not to be incumbrances;

Minor interests.

"Minor interests" mean the interests not capable of being disposed of or created by registered dispositions but capable of being overridden by the proprietor unless protected as provided by the Acts; and include all the interests and powers which in the case of land held on trust for sale are under Part I. of the Law of Property Act, 1922, capable of being overridden by the trustees for sale, and in the case of settled land are, under that Act and the Settled Land Acts, capable of being overridden by the tenant for life of full age or statutory owner, as well as all rights and interests which are not registered, or protected on the register, and are not overriding interests;

Registered dispositions.

"Registered dispositions" mean dispositions which take effect under the powers conferred on the registered proprietor of the land or of a charge by way of transfer, charge, mortgage or otherwise and to which (when required to be registered) special effect is given by the Acts on registration;

Purchaser. "Purchaser" includes a lessee, mortgagee, or other person who for valuable consideration acquires any interest in land or in any charge on land;

Valuable consideration. "Valuable consideration" includes marriage, but does not include a nominal consideration in money;

Lease. "Lease" includes any tenancy or agreement for a lease or tenancy;

Limitation Acts. "The Limitation Acts" mean the Real Property Limitation Acts, 1833, 1837 and 1874, and any Act amending the same;

Escheat. References to the Crown's right to "escheat" shall be construed as referring to "bona vacantia."

(3) The definition relating to "Courts," and the reference to the meaning of "land" (as amended by the Act of 1897) in section four are repealed.

Application for registration by intending purchasers and as to examination of title.

3.—(1) Notwithstanding anything contained in sections five, eleven and sixty-eight, a person who has merely contracted to buy land shall not be entitled to apply for registration.

(2) If on an application for registration with possessory title, the registrar is satisfied as to the title he may register it as absolute or good leasehold, whether the applicant consents to such registration or not, but in that case no higher fee shall be charged than would have been charged for registration with possessory title.

Application for registration of leaseholds.

4.—(1) In section eleven, subsection (1), the words "for a life or lives, or determinable on a life or lives, or" are hereby repealed.

(2) The amendment of section eleven contained in the Act of 1897 shall only apply where a right of redemption is subsisting in the mortgage term; but where on an application to register a mortgage term, it appears that the applicant is entitled in equity to the superior term (if any) out of which it was created, the registrar shall (except where the mortgage term does not comprise the whole of the land included in the superior term unless in that case the rent, if any, payable in respect of the superior term has been apportioned, or the rent is of no money value or no rent is reserved, and unless the covenants (if any) entered into for the benefit of the reversion have been apportioned (either expressly or by implication) as respects the land comprised in the mortgage term) register him as proprietor of the superior term without any entry to the effect that the legal interest in that term is outstanding, and on such registration the superior term shall vest in the proprietor and the mortgage term shall merge therein.

(3) Sections twelve, fourteen, fifteen, and sixteen are hereby repealed.

Overriding interests.

5.—(1) The words "succession duty" in subsection (2) of section eighteen and the words "estate duty" in the amend-

ment of section eighteen in the First Schedule to the Act of 1897 are hereby repealed.

(2) Subsections (4) and (5) of section eighteen, with the amendment of those subsections contained in the First Schedule to the Act of 1897, are hereby repealed, but only as respects land registered after the commencement of this Act.

(3) The following provisions shall be substituted for subsections (4) and (5) of section eighteen, namely:—

(i) The rights of every person in actual occupation of the land or in receipt of the rents and profits thereof:

(ii) In the case of a possessory, qualified, or good leasehold title, all estates, rights, interests, and powers excepted from the effect of registration:

(iii) All rights under local land charges, unless and until registered or protected on the register in the prescribed manner.

(4) The provisoes (*b*), (*c*), and (*d*) of section eighteen (including the last paragraph of section eighteen) are hereby repealed, together with the amendment thereof relating to entry of notice of the matters in subsections (4) and (5), and of rights of re-entry and reverter, and of registration of easements, contained in the First Schedule to the Act of 1897.

(5) In subsection (7) of section eighteen the words "granted at a rent without taking a fine" are hereby substituted for the words "in cases where there is an occupation under such tenancies."

(6) The following provisions shall be substituted for the last paragraph of section eighteen:—

(i) Where at the time of first registration any easement, right, privilege, or benefit created by an instrument and appearing on the title adversely affects the land, the registrar shall enter a note thereof on the register:

(ii) Where the existence of any liability, right, or interest mentioned in this section (as amended) is proved to the satisfaction of the registrar or admitted, he may (subject to any prescribed exceptions) enter notice of the same or of a claim thereto on the register, but no claim to an easement, right, or privilege not created by an instrument shall be noted against the title to the servient land if the proprietor of such land (after the prescribed notice is given to him) shows sufficient cause to the contrary.

(7) On a disposition by a mortgagee or other person (by virtue of any interest or power which is an overriding interest) of any estate charge or right in or upon the registered land which is capable of being registered, the registrar shall, if so required, give effect to the disposition on the register.

Determination of incumbrances

6.—(1) The provisions of section twenty shall apply to the notification of the determination (whole or partial) or variation

or registered interests.

of any lease, rentcharge, easement, right, or other interest in land which is noted on the register as an incumbrance, and on the determination of any registered rentcharge or other estate or interest, the registrar shall close the registered title relating thereto.

(2) When a land charge protected by notice has been discharged as to all or any part of the land comprised therein, the notices relating thereto and to all devolutions of and dealings therewith shall be vacated as to the registered land affected by the discharge.

Dispositions of registered freeholds by the proprietors thereof.

7.—(1) Section twenty-nine (relating to transfers by the registered proprietor of freehold land) shall, subject to any entry to the contrary on the register, be deemed (whether the land was registered before or after the commencement of this Act) to authorise—

(*a*) A transfer of the fee simple in possession in the prescribed manner of any mines or minerals apart from the surface; or of the surface without all or any of the mines and minerals; but not an undivided share in the registered land; and

(*b*) A grant of a rentcharge in possession (either perpetual or for a term of years absolute) which sufficiently refers in the prescribed manner to the registered land charged; and

(*c*) A transfer of the fee simple in possession of the registered land in the prescribed manner, subject to the creation thereout, by way of reservation to any person of a rentcharge in possession (either perpetual or for a term of years absolute); or of any easement, right, or privilege in possession (either in fee simple or for a term of years absolute); and

(*d*) A transfer or grant in fee simple in possession of any easement, right, or privilege, in, over, or derived from the registered land, which sufficiently refers, in the prescribed manner, to the registered servient tenement and to the dominant tenement, whether being registered land or not; and

(*e*) A lease (subject or not to the reservation of an easement, right, or privilege) of the registered land or any part thereof, or of any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals (but not of an undivided share in the land), or of an easement, right or privilege, in or over the land for any term of years absolute and for any purpose (but where by way of mortgage subject to the provisions of the Acts and of Part I. of the

Law of Property Act, 1922, relating thereto), and in any form which sufficiently refers, in the prescribed manner, to the registered land.

(2) A perpetual rentcharge in possession may be granted or reserved to any person with or without a power of re-entry, exerciseable at any time, on default of payment thereof, or on breach of covenant, and shall have incidental thereto all the powers and remedies (as varied by the disposition creating the rentcharge) for recovery thereof conferred by section forty-four of the Conveyancing Act, 1881 (as amended by any subsequent enactment), and an easement, right, or privilege may in a registered disposition be reserved to any person for a legal estate, and the reservation shall operate to create the same for the benefit of the land for the benefit of which the right is reserved.

(3) All the interests transferred or created by such dispositions by the registered proprietor shall (subject to the provisions relating to mortgages) be completed by registration in the same manner and with the same effect as provided by the Acts with respect to transfers of registered land (except in the case of leases originally granted for a term not exceeding twenty-one years), and notice thereof shall (except in the case of leases granted for a term not exceeding twenty-one years at a rent without taking a fine) also be noted on the register under section fifty as amended, and every such disposition shall, when registered, take effect as a registered disposition, and a lease made by the registered proprietor under this section which is not required to be registered or noted on the register shall nevertheless take effect as a registered disposition immediately on being granted:

Provided that nothing in this subsection shall render necessary the registration of any easement, right, or privilege except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.

(4) A lease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof, at a rent without taking a fine may be granted and shall take effect under this section notwithstanding that a caution (including a notice of deposit), restriction or inhibition may be subsisting, but subject to the interests intended to be protected by any such caution, restriction or inhibition.

(5) The foregoing powers of disposition shall (subject to the express provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mort-

gage; but no estate, other than a legal estate shall be capable of being disposed of or created under this section.

(6) In the Acts the expression "transfer" or "disposition," when referring to registered freehold land, shall include any disposition authorised as aforesaid; and "transferee" shall have a corresponding meaning.

Estate of transferee of freeholds with absolute title.

8.—(1) In section thirty (relating to transfers for value) the words "or lease" are hereby inserted after the words "A transfer"; the word "the" is substituted for the word "an" occurring before the words "estate in fee simple" and after the words "in fee simple" shall be inserted the words "or the term of years absolute expressed to be created," and after the words "land transferred" shall be inserted the words "or dealt with," and the words "with all rights, privileges, and appurtenances belonging and appurtenant thereto" shall, subject to any entry to the contrary in the register, be deemed to include the appropriate rights and interests which would, under section six of the Conveyancing Act, 1881, have been transferred if the land had not been registered.

(2) At the end of section thirty the following words are hereby added:—"And the transfer or lease shall operate in "like manner as if the registered transferor or lessor were "(subject as aforesaid) entitled to the registered land in fee "simple in possession for his own benefit."

(3) The amendment (relating to mines and minerals) of section thirty contained in the First Schedule to the Act of 1897 is hereby repealed.

(4) In sections thirty-one, thirty-two, and thirty-three, the words "or lease" in each of those sections are hereby inserted after the words "A transfer."

(5) Rules may be made under section one hundred and eleven (as amended) adapting the provisions of sections thirty to thirty-three inclusive to dispositions (other than transfers and leases) authorised to be effected by the registered proprietor of the land.

Dispositions of registered leaseholds by the registered proprietor.

9.—(1) Section thirty-four (relating to transfers by the registered proprietor of leasehold land) shall, subject to any entry to the contrary on the register, be deemed (whether the land was registered before or after the commencement of this Act) to authorise—

(*a*) A transfer in the prescribed manner of any of the leasehold mines and minerals apart from the surface; or of the surface without all or any of the leasehold mines and minerals; but not an undivided share in the leasehold land; and

(*b*) A transfer reservation or grant (to the extent of the registered leasehold interest) of any rentcharge in possession, easement, right, or privilege in, over, or derived from the leasehold land, which sufficiently refers, in the prescribed manner, to the registered lease, and to the land affected or dominant tenement, whether being registered land or not; and

(*c*) A transfer of the registered land, subject to a reservation to any person of any such rentcharge, easement, right, or privilege; and

(*d*) A subdemise (subject or not to the reservation of an easement, right, or privilege) of the registered land, or any part thereof or of any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals (but not of an undivided share in the land), or of an easement, right, or privilege, in or over the land, for any term of years absolute of less duration than the registered term and for any purpose (but where by way of mortgage, subject to the provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating thereto) and in any form which sufficiently refers in the prescribed manner, to the registered land, and in the case of an easement, right, or privilege to the dominant tenement, whether being registered land or not.

(2) A disposition of registered leasehold land may be made subject to a rent (whether legally apportioned or not) or to a rent legally apportioned in the prescribed manner.

(3) All the interests transferred or created by such dispositions by the registered proprietor shall (subject to the provisions relating to mortgages) be completed by registration in the same manner and with the same effect as provided by the Acts with respect to transfers of registered leasehold land (except in the case of underleases originally granted for a term not exceeding twenty-one years); and notice thereof shall (except in the case of underleases granted for a term not exceeding twenty-one years at a rent without taking a fine), also be noted on the register under section fifty as amended, and every such disposition shall, when registered, take effect as a registered disposition, and an underlease made by the registered proprietor which is not required to be registered or noted on the register shall nevertheless take effect as a registered disposition immediately on being granted:

Provided that nothing in this subsection shall render necessary the registration of any easement, right, or privilege

except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.

(4) An underlease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof, at a rent without taking a fine, may be granted and shall take effect under this section, notwithstanding that a caution (including a notice of deposit), restriction or inhibition may be subsisting, but subject to the interests intended to be protected by any such caution, restriction or inhibition.

(5) The foregoing powers of disposition shall (subject to the express provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage, but no estate, other than a term of years absolute, shall be capable of being disposed of or created under this section.

(6) The last paragraph of section thirty-four commencing with the words "upon completion of the registration" to the end of that section is hereby repealed.

(7) In the Acts the expression "transfer" or "disposition" when referring to registered leasehold land shall include any disposition authorised as aforesaid; and "transferee" shall have a corresponding meaning.

Estate of transferee for value of leaseholds with absolute title.

10.—(1) In section thirty-five (relating to transfers for value of leaseholds) after the words "A transfer" the words "or subdemise" are hereby inserted; and after the words "to such land" the words "or for the term created by the subdemise as the case may require" and the words "the possession of" are hereby repealed, and the words "all implied or expressed rights, privileges and appurtenances" shall, subject to any entry to the contrary on the register, be deemed to include the appropriate rights and interests which would under section six of the Conveyancing Act, 1881, have been transferred if the land had not been registered.

(2) At the end of section thirty-five the following words are hereby added: "And the transfer or subdemise shall operate "in like manner as if the registered transferor or sub-lessor "were (subject as aforesaid) absolutely entitled to the registered "lease for his own benefit."

(3) Sections thirty-six and thirty-seven are hereby repealed.

(4) In section thirty-eight after the words "have the same effect as" shall be inserted the words "may be prescribed in the case of."

Transmission on death, and rights of

11.—(1) Section forty-one (relating to transmission on death) is hereby repealed, and provision shall be made by rules

for the manner in which effect is to be given on the register to transmissions on death. husband of female proprietor.

(2) Sections forty-four and forty-five (relating to husbands' rights) as amended by the Act of 1897 are hereby repealed.

12. Section forty-nine (relating to dispositions off the register), with the amendment thereof (relating to severance of mines and minerals from the surface) contained in the First Schedule to the Act of 1897, is hereby repealed, and in lieu thereof the following provisions shall have effect:— Dispositions off the register creating "minor interests."

(1) Any person, whether being the registered proprietor or not, having a sufficient estate, interest, or power in or over registered land, may dispose of, or deal with the same and create any estates, interests, or rights therein which are permissible by law, in like manner and by the like modes of assurance in all respects as if the land were not registered, but subject as provided by this section.

(2) All estates, interests and rights disposed of or created under subsection (1) of this section (whether by the registered proprietor or any other person) shall, subject to the provisions of this section, take effect as minor interests and be capable of being overridden by registered dispositions for valuable consideration.

(3) Minor interests shall, subject to the express exceptions contained in this section, take effect only in equity, but may be protected by entry on the register of such notices, cautions, inhibitions and restrictions as are provided for by the Acts or rules.

(4) A minor interest in registered land subsisting or capable of taking effect at the commencement of this Act shall not fail or become invalid by reason of the same being converted into an equitable interest; but after such commencement a minor interest in registered land shall only be capable of being validly created in any case in which an equivalent equitable interest could have been validly created if the land had not been registered.

(5) If a minor interest subsisting or capable of taking effect at the commencement of this Act, would, if this Act had not been passed have taken effect as a legal interest, then (subject and without prejudice to the estate and powers of the registered proprietor whose estate is affected) the conversion thereof into an equitable interest shall not affect its priority over other minor interests.

(6) Priorities as regards dealings effected after the commencement of this Act, between assignees and incumbrancers of life interests, remainders, reversions and executory interests shall be regulated by the order of the priority cautions or inhibitions lodged (in a specially prescribed form) against the proprietor of the registered estate affected, but, save as aforesaid, priorities as between persons interested in minor interests, shall not be affected by the lodgment of cautions or inhibitions.

(7) Where after the commencement of this Act the proprietor of the legal registered estate which is settled, disposes of or deals with his beneficial interest in possession in favour of a purchaser, and accordingly the minor interest disposed of or created would, but for the restrictions imposed by Part I. of the Law of Property Act, 1922, and this section on the creation of legal interests, have been a legal interest, then the purchaser shall (subject as provided by this section in regard to priorities) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise had the minor interest been a legal interest, and the reversion (if any) on any leases or tenancies derived out of the registered estate had been vested in him.

(8) A minor interest created under this section shall not operate to prevent a registered estate or interest passing to the personal representative of a deceased registered proprietor, or to the survivors or survivor of two or more joint registered proprietors, nor shall this section affect the right of any person entitled to, or having any power of disposition over any overriding interest to dispose of or deal with the same.

(9) Where by the operation of any statute or statutory or other power, or by virtue of any vesting order of any court or other competent authority, or an order appointing a person to convey, or of a vesting declaration (express or implied) appointment or other assurance, a minor interest in the registered land, being an interest or charge capable of being registered, is disposed of or created, the registered proprietor shall, subject to proper provision being made for payment of costs, be bound to give effect to the disposition, and if the registered proprietor is unable or refuses to make the requisite disposition or cannot be found, or if for any other reason a disposition by him cannot be obtained within a reasonable time, then the registrar shall give effect thereto in the prescribed manner, and

the disposition shall take effect in like manner as nearly as may be as if it had been made by the registered proprietor by a registered disposition:

Provided that—

(*a*) So long as the registered proprietor has power under the Settled Land Acts or any other statute conferring special powers on a tenant for life of full age or statutory owner or under the settlement, to override the minor interest so disposed of or created, no estate or charge shall be registered which would prejudicially affect any such powers:

(*b*) So long as the registered proprietor holds the land on trust for sale, no estate or charge shall be registered in respect of an interest which, under Part I. of the Law of Property Act, 1922, or otherwise, ought to remain liable to be overridden on the execution of the trust for sale:

(*c*) Nothing in this subsection shall impose on a registered proprietor an obligation to make a disposition unless the person requiring the disposition to be made has a right in equity to call for the same:

(*d*) Nothing in this subsection shall prejudicially affect the rights of a personal representative in relation to the administration of the estate of the deceased.

(10) All leases at a rent for a term of years absolute authorised by the powers conferred by the Conveyancing Acts, 1881 to 1922, or the Settled Land Acts, or any other statute (whether or not as extended by any instrument) may be granted in the name and on behalf of the registered proprietor by the person (other than the registered proprietor) empowered to grant the same, and shall be valid at law or in equity (as the case may require), and may be protected by notice on the register, and, if the term originally created exceeds twenty-one years, or is not granted at a rent without taking a fine, shall be registered in like manner and with the same effect as if the lease had been granted by the registered proprietor of the land, and without prejudice to any priority acquired by the exercise of the power; but nothing in this sub-subsection shall authorise any person granting any lease in the name of the registered proprietor to impose (save in regard to the usual qualified covenant for quiet enjoyment) any personal liability on such proprietor.

(11) Provided that where, under the Acts, the registered proprietor is authorised (otherwise than by virtue of this section) to dispose of or create any estate, interest, or right, or otherwise deal with the registered land in the manner required for giving effect to the transaction, then the disposition or dealing by the registered proprietor shall (subject to the express provisions relating to mortgages) not take effect under this section, but shall, for the purposes of the Acts, take effect as a registered disposition, and, when so required, shall be registered or protected as provided by the Acts or rules.

(12) Rules may be made for applying the provisions of this section to the case of minor interests in a debt secured by a registered charge.

Notice of leases, rentcharges, &c.

13.—(1) The last paragraph of section fifty (relating to notices of leases) commencing with the words "is for a life or lives" is hereby repealed and the following paragraph shall be substituted therefor, namely:—

"is not an overriding interest, may apply to the registrar to register notice of such lease or agreement in the prescribed manner, and when so registered, every registered proprietor and the persons deriving title under him (except proprietors of charges or incumbrances registered or protected on the register prior to the registration of such notice, unless such proprietors are, by reason of the lease having been granted under any statutory or other power or by reason of their concurrence or otherwise, bound by the terms of the lease or agreement) 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."

(2) The provisions of sections fifty and fifty-one shall be extended by the rules so as to apply to the registration of notices of or of claims in respect of—

(*a*) The grant or reservation of any rentcharge in possession, either perpetual or for a term of years absolute:

(*b*) The severance of any mines or minerals from the surface, except where the mines and minerals severed are expressly included in the registration:

(*c*) Land charges (not including local land charges, unless application is made to register notice thereof) until the land charge is registered as a registered charge:

(*d*) The rights of any person in the proceeds of sale of land held on trust for sale or in land subject to a

settlement to require that (unless a trust corporation is acting as trustee) there shall be at least two trustees of the disposition on trust for sale or of the settlement:

(*e*) The rights (acquired before the commencement of the Law of Property Act, 1922) of any widow in respect of dower or under the Intestates' Estates Act, 1890, and any right to free bench saved by the said Act of 1922 (which rights shall take effect in equity as minor interests):

(*f*) Creditors' notices and any other right, interest, or claim which it may be deemed expedient to protect by notice instead of by caution, inhibition, or restriction.

(3) Provided that a notice shall not (except pending the appointment of trustees of a disposition on trust for sale or a settlement) be registered in respect of any estate, right, or interest which (independently of the Acts) is capable of being overridden by the registered proprietor under the trust for sale or the powers of the Settled Land Acts or any other statute, or of a settlement, and of being protected by a restriction in the prescribed manner; and a notice lodged pending the appointment of trustees of a disposition on trust for sale or a settlement shall be cancelled if and when the appointment is made and the proper restriction (if any) is entered.

(4) Provided also that a notice shall not be registered in respect of a right interest or claim so as to affect prejudicially:

(*a*) The powers of disposition of the personal representative of the deceased under whose will or by the operation of whose intestacy the right, interest, or claim arose; or

(*b*) The powers of disposition (independently of the Acts) of a registered proprietor holding the land on trust for sale.

(5) A disposition by the registered proprietor shall take effect subject to all estates, rights, and claims which are protected by way of notice on the register at the date of the registration or entry of notice of the disposition, but only if and so far as such estates, rights, and claims may be valid and are not (independently of the Acts) capable of being overridden.

(6) Where notice of a claim is entered on the register, such entry shall operate by way of notice only, and shall not operate to render valid such claim whether made adversely to or for the benefit of the registered land or charge.

(7) Section fifty-two (relating to dower and curtesy) is hereby repealed.

Cautions against registered dealings.

14.—(1) The following provision shall be substituted for the provision at the end of section fifty-three (relating to cautions), namely :—

"Provided that a person whose estate, right, interest, or claim has been registered or protected by a notice or restriction shall not be entitled (except with the consent of the registrar) to lodge a caution in respect of such estate, right, interest, or claim, but this provision shall not operate to prevent an incumbrancer or assignee of a life interest, remainder, reversion or executory interest, from lodging a priority caution in a specially prescribed form."

(2) A caution lodged under section fifty-three shall be supported by such evidence as may be prescribed, and the personal representative of a deceased cautioner may consent or object to a dealing in the same manner as the cautioner; and the second paragraph of section fifty-three is hereby repealed.

(3) Where a caution is lodged under section fifty-three notice thereunder shall be given of any intended entry on the register for protecting any deposit or other dealing by the registered proprietor, as well as of any intended registered disposition.

Power to place restrictions on the register.

15.—(1) Restrictions on disposing of or dealing with the registered land or charge in any manner in which by the Acts the registered proprietor is authorised to dispose of or deal with the same, or in reference to the deposit of any certificate by way of security, may, under section fifty-eight, be placed on the register in the prescribed manner.

(2) Restrictions placed on the register under section fifty-eight shall not extend or apply to dispositions of or dealings with minor interests.

(3) The court may, in lieu of an inhibition, order a notice or restriction to be placed on the register.

Caution against first registration of land.

16. Where a caution is lodged under section sixty the personal representative of the deceased cautioner may consent or object to registration in the same manner as the cautioner.

Notice of manorial incidents.

17. Where land is affected by manorial incidents, the registrar may enter a note of that fact on the register, and may cancel such note when the extinguishment of the manorial incidents has been proved.

As to settled land and land held on trust for sale and as to part owners.

18.—(1) Where the land is settled and, but for the Law of Property Act, 1922, a power of sale would be vested in trustees, the provisions of the Acts relating to the registration of settled land shall apply in substitution for the provisions of section sixty-eight (which section is hereby repealed), and where land

is subject to a trust for sale express or implied (whether or not there is power to postpone the sale) the trustees for sale shall be registered as proprietors of the land.

(2) Section sixty-nine (relating to part owners) is hereby repealed.

Facts and documents to be disclosed.

19. The words "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" in section seventy are hereby repealed.

Enactments as to notice, writs, orders deeds of arrangement, and land charges.

20.—(1) At the end of subsection (1) of section eighty-three (as enacted by the Act of 1897) relating to trusts, the following words shall be added, namely:—

"And (subject to the provisions of the Acts relating to fraud) a purchaser acquiring title under a registered disposition shall not be concerned with any lis pendens, annuity, writ, order, deed of arrangement, matter, or claim (not being an overriding interest) which is not protected by an entry on the register, whether he has or has not notice thereof, express, implied, or constructive."

(2) Subsections (3), (4), (7), and (8) of section eighty-three (relating to registration) are hereby repealed and the following provisions shall have effect in lieu thereof:—

(i). Registration of a writ, order, or deed of arrangement under the Land Charges Registration and Searches Act, 1888 (as amended by any subsequent enactment), or a lis pendens, annuity, or other interest now required to be registered by the registrar or otherwise under the Land Charges Act, 1900, shall, where the land or charge securing the debt affected is registered, be effected only by lodging a creditors' notice or a caution against dealings with the land or the charge, and registration of a land charge (but not including a local land charge unless application is made to register notice thereof) under the said Act of 1888 (as amended by the Law of Property Act, 1922) shall, where the land affected is registered, be effected only by registering a notice under section fifty of the Act of 1875 (as amended), and no other registration shall be required unless the charge (to secure money) is to be realised, when the land charge may be registered as a registered charge.

(ii) A person interested under a writ or order for enforcing a judgment against registered land, or a charge, may inspect and make copies of and extracts from the register and documents referred to therein which are in the custody of the registrar, so far as the same

relate to the registered land, or charge, and may, in accordance with section fifty-three of the Act of 1875, lodge a caution against dealings therewith.

(iii) A registered proprietor of a land charge shall, in reference thereto, but subject to any entry to the contrary on the register, have the same powers as are by the Acts conferred on the proprietor of a registered charge, but this subsection shall operate without prejudice to the priority conferred by the land charge.

(iv) The foregoing provisions shall apply only to writs and orders issued registered, or re-registered deeds of arrangement executed, lites pendentes or annuities commenced, registered, or re-registered and land charges created, registered or re-registered after the commencement of this Act.

Restrictive covenants.

21. Section eighty-four as amended by the Act of 1897 is hereby repealed and the following provisions shall have effect in substitution therefor:—

(1) Any person entitled to the benefit of a restrictive covenant or restriction with respect to the building on or other user of registered freehold land may apply to the registrar to enter notice thereof on the register, and where practicable the notice shall be by reference to the instrument, if any, which contains the covenant or agreement, and a copy or abstract of such instrument shall be filed at the registry; and where any such covenant or agreement appears to exist at the time of first registration, notice thereof shall be entered on the register. In the case of registered land the notice aforesaid shall take the place of the registration of a land charge.

(2) When such notice is entered every registered proprietor of the land and the persons deriving title under him (except incumbrancers or other persons who at the time when the notice is entered may not be bound by the covenant or agreement) shall be deemed to be affected with notice of the covenant or agreement, as being an incumbrance on the land.

(3) Where the covenant or agreement is discharged or modified by an order under Part III. of the Law of Property Act, 1922, or otherwise, or the court refuses to grant an injunction for enforcing the same, the entry shall either be cancelled or reference made to the order or other instrument and a copy of the order, judgment, or instrument shall be filed at the registry.

(4) The notice shall, when practicable, refer to the land whether registered or not for the benefit of which the covenant or agreement was made.

(5) The registered proprietor may (subject to any entry to the contrary on the register, and without prejudice to the rights of persons entitled to overriding interests (if any) and to any incumbrances entered on the register, who may not concur therein) in any registered disposition or other instrument by covenant, condition, or otherwise, impose or make binding, so far as the law permits, any obligation or reservation with respect to the building on or other user of the registered land or any part thereof, or with respect to mines and minerals (whether registered separately or as part of the registered land), or with respect to any other thing in like manner as if the registered proprietor were entitled to the registered estate for his own benefit.

(6) The registered proprietor may (subject as aforesaid) release or waive any rights arising or which may arise by reason of any covenant or condition, or release any obligation or reservation the benefit of which is annexed or belongs to his registered estate to the same extent and in the same manner as if the rights in respect of the breach or the benefit of the covenant, obligation or reservation had been vested in him absolutely for his own benefit.

(7) Entries shall be made on the register in the prescribed manner of all obligations and reservations imposed by the registered proprietor, of the release or waiver of any obligation or reservation and of all obligations and reservations acquired by him for the benefit of the registered land.

Amendment of section 82 and as to the Trustee Acts.

22.—(1) In section eighty-two the expression "incorporeal hereditament" does not include an undivided share in land.

(2) In section eighty-five "1893 (as amended by any subsequent enactment)" shall be substituted for "1850," and in place of the words "but this enactment" to the end of the section shall be substituted the words "subject to the express "provisions of this Act as amended by any subsequent enact- "ments and to the rules made thereunder."

As to married women, infants, and lunatics.

23.—(1) Section eighty-seven (relating to married women) and section eighty-eight (relating to infants and lunatics) are hereby repealed.

(2) A purported disposition of registered land or of a charge to an infant made after the commencement of this Act or by the will of a registered proprietor dying after such commencement, shall not entitle the infant to be registered as proprietor of the land or charge until he attains full age, but in the

meantime shall operate only as a declaration binding on the registered proprietor or personal representative that the registered estate or charge is to be held on trust to give effect to minor interests in favour of the infant, corresponding, as nearly as may be, with the interests which the disposition purports to transfer or create; and the disposition or a copy of or extract therefrom shall be deposited at the registry:

Provided that—

(*a*) If the disposition is made to the infant jointly with another person of full age, then that person shall, during the minority, be entitled to be registered as proprietor, and the infant shall not be registered until he attains full age:

(*b*) Where the registered land is subject to any trusts or rights of redemption in favour of any person other than the infant, then nothing in this section shall affect such trusts or rights of redemption:

(*c*) Where by reason of the minority or otherwise the land is settled land, then the provisions of the Acts relating to settled land shall apply thereto.

(3) Where after the commencement of this Act an infant becomes entitled under a will or on an intestacy to registered land or a registered charge, the same shall not be transferred by the personal representative to the infant until he attains full age.

(4) In case the benefit of a registered charge becomes vested in an infant the charge shall during the minority be registered in the names of the personal representatives, trustees, or other persons who if the charge had affected unregistered land would have been able to dispose of the same, and they shall for the purposes of the Acts have the same powers in reference thereto as the infant would have had if of full age.

(5) A caution may be lodged in the name or on behalf of an infant by his parent, trustee or guardian.

(6) Where a registered proprietor of the land or of a charge is a lunatic (whether so found or not) or a defective, the committee of his estate or his receiver shall, under an order in lunacy or otherwise, or under any statutory power, have and may exercise in the name and behalf of the lunatic or defective all the powers which under the Acts the lunatic or defective could have exercised if free from disability, and a copy of every such order shall be filed with the registrar and may be referred to on the register.

Rectification of the register by the court.

24. For the words "subject to any estates or rights acquired by registration in pursuance of this Act" respectively contained in sections ninety-five and ninety-six the words "subject to any express provisions of the Acts to the contrary" are hereby substituted in those sections.

Power to make general rules.

25. Provision may be made by general rules under section one hundred and eleven, as amended by the Act of 1897, for all or any of the following purposes:—

(*a*) For making such adaptations as changes in the general law (including changes effected by the Law of Property Act, 1922) may render expedient, with a view to the practice under the Acts being from time to time adapted, so far as expedient, to the practice in force in regard to unregistered land:

(*b*) For enabling the registrar, without further investigation, to accept a title as absolute or good leasehold, in proper cases, on the faith of certificates given by counsel or solicitors or both:

(*c*) For clearing the registered title on suitable occasions, and for enabling the registrar to permit any person interested to inspect entries on the register which have been cancelled, whether or not the title has been closed:

(*d*) For giving notice on land certificates of the general effect of registration:

(*e*) For the registration, by way of notice, on the first registration of the land of any easement, right, or privilege created by an instrument and operating at law which appears to affect adversely the land, and so far as practicable by reference to the instrument creating the same:

(*f*) For enabling any person who acquires any such easement, right, or privilege after the date of first registration of the land to require (subject to notice being given to the owner of the servient land) entry to be made in the register of notice of the same, and so far as practicable by reference to the instrument creating the right:

(*g*) For enabling the first or any subsequent registered proprietor to require that notice of his title to any such right, or interest, whether acquired under an instrument or by prescription or otherwise, being appurtenant or appendant to the registered land, be entered on the register, and, so far as practicable, by reference to the instrument (if any) creating the right, or interest, and for prescribing the effect of any such entry:

(*h*) For providing for the registration of a rentcharge in possession (either perpetual or for a term of years absolute) or mines and minerals when held separately from the surface and as to notices to be entered of any exception of mines and minerals; and for pre-

venting the registration of the benefit of any easement, right, privilege or restrictive covenant otherwise than as belonging to registered land:

(*i*) For regulating the procedure on application for first registration, provided that the applicant or his solicitor shall not be bound to make any declaration where a documentary title is shown, which would operate as a guarantee in regard to matters not disclosed by the abstract; for defining the effect of registration with a good leasehold title; and for enabling registration with a possessory title to be effected provisionally pending the investigation of the title:

(*j*) For regulating the issue and forms of certificates, and, if deemed desirable, for prescribing any special notification on the certificate to be given by way of warning when incumbrances, notices, and other adverse entries appear on the register:

(*k*) For providing for the cases in which the registrar may grant a certificate that an intended disposition is authorised, and will be registered if presented:

(*l*) For prescribing the form and effect of priority notices, and of priority cautions and inhibitions:

(*m*) For enabling a registered proprietor of land or a charge to register not more than three addresses (including, if he thinks fit, the address of his solicitor or firm of solicitors) to which notices are to be sent:

(*n*) For providing any special precautions to be taken against forgery when the land certificate or certificate of charge is not in the possession of the registered proprietor.

PART II.

Section 166.

AMENDMENTS AND REPEALS OF THE ACT OF 1897.

Sections referred to.

1. References to sections in this Part of this Schedule shall be construed as references to sections of the Act of 1897 unless the contrary is stated.

Settled land.

2.—(1) The following provisions shall be substituted for subsection (1) of section six (relating to settled land), namely:—

"(i) Settled land shall be registered in the name of the tenant for life of full age or statutory owner, and where a tenant for life (being the registered proprietor) ceases in his lifetime to be a tenant for life, then he shall transfer the land to his successor in title of full age, or if such successor is an infant, then to the statutory owner:

"(ii) The successive or other interests created by or arising under a settlement shall (save as regards any legal estate which cannot be overridden under the powers of the Settled Land Acts or other statute) take effect as minor interests and not otherwise; and effect shall be given thereto by the registered proprietor of the settled land as provided by Part I. of the Law of Property Act, 1922, with respect to the estate owner, with such adaptations (if any) as may be prescribed in the case of registered land by rules made under the Acts:

"(iii) References in the Acts to the 'tenant for life' shall, where the context admits, be read as referring to the tenant for life of full age or statutory owner who is entitled to be registered."

(2) The restrictions or inhibitions prescribed under subsection (2) of section six shall (subject to the provisions of this section relating to releases by the trustees of a settlement and to transfers by a tenant for life whose estate has ceased in his lifetime) be binding on the registered proprietor during his life, and shall not restrain or otherwise affect a disposition by his personal representative.

(3) The following provisions shall be substituted for subsection (3) of section six aforesaid, namely:—

"Where land already registered is acquired with capital money the same shall be transferred by a transfer in a special prescribed form to the tenant for life of full age, or statutory owner, and such transfer shall name the proper persons to be trustees thereof for the purposes of the Settled Land Acts, and contain an application to register the prescribed restrictions applicable to the case; a transfer made in the special prescribed form shall be deemed to comply with the requirements of Part I. of the Law of Property Act, 1922, respecting vesting deeds; and where no capital money is paid but land already registered is to be made subject to a settlement, it shall not be necessary for the trustees of the settlement to concur in the transfer."

(4) The following provisions shall be substituted for subsection (4) of section six aforesaid, namely:—

"(i) On the death of a registered proprietor, or of the survivor of two or more joint registered proprietors where the registered land is settled, whether by his will or by an instrument taking effect previously to his death, his personal representative shall hold the settled land subject to payment or to making provision

for payment of all death duties and other liabilities affecting the land, and having priority to the settlement, upon trust to transfer the same (by an assent) in the prescribed manner to the tenant for life of full age or statutory owner, and in the meantime upon trust to give effect to the minor interests under the settlement; but a transfer shall not be made to an infant.

"(ii) Rules may be made for enabling a personal representative or registered proprietor in proper cases to create legal estates by registered dispositions for giving effect to or creating overriding interests; to provide for the cases in which application shall be made by the personal representative or registered proprietor for the registration of restrictions or inhibitions or notices, and for discharging a personal representative or former registered proprietor who has complied with the requirements of the Acts and rules from all liability in respect of minor interests under a settlement.

"(iii) Where a tenant for life of full age or statutory owner who, if the land were not registered, would be entitled to have the settled land conveyed to him, is not the registered proprietor, then the registered proprietor shall (notwithstanding any stipulation or provision to the contrary) be bound to execute such transfers as may be required for giving effect on the register to the rights of such tenant for life of full age or statutory owner.

"(iv) Where the former trustees of a settlement have in the prescribed manner released the land to the registered proprietor from the minor interests, then the registrar shall be entitled to assume that the settlement has determined, and the restrictions or inhibitions for protecting the minor interests thereunder shall be cancelled.

"(v) Where an order is made under Part II. of the Law of Property Act, 1922, authorising the trustees of the settlement to exercise the powers on behalf of a tenant for life of full age who is registered as proprietor, they may in his name and on his behalf do all such acts and things under the Acts as may be requisite for giving effect on the register to the powers authorised to be exercised in like manner as if they were registered as proprietors of the land, but a copy of the order shall be filed at the registry before such powers are exercised.

"(vi) Where a registered proprietor ceases in his lifetime to be a tenant for life, then on the registration of his successor in title of full age or other statutory owner it shall be the duty of the trustees of the settlement, if

the same be still subsisting to apply for such alteration (if any) in the restrictions or inhibitions as may be required for the protection of the minor interests under the settlement."

(5) Subsections (4), (5), (8), and (10) of section six are hereby repealed ; and in subsection (6) the expression "settlement" shall as respects the appointment of trustees include the vesting instrument as well as the trust deed and any other instruments creating the settlement, but, in the case of registered land, a transfer or assent in the prescribed form may take the place of a vesting instrument.

(6) The following words are hereby added at the end of subsection (6) of section six, namely :—

" The registrar may notwithstanding any restriction entered on the register grant a certificate that an intended registered disposition is authorised by a settlement, or otherwise, and will be registered, and a purchaser who obtains such certificate shall not be concerned to see that the disposition is authorised, but where capital money is paid to the persons to whom the same is required to be paid by a restriction or into court no such certificate shall be required."

(7) The following words are hereby added at the end of subsection (7) of section six aforesaid, namely :—

" But so long as the estate interest or charge is capable of being overridden under the Settled Land Acts, or Part I. of the Law of Property Act, 1922, no charge shall be created or registered under this subsection."

(8) This section applies in every case where pursuant to the Law of Property Act, 1922, settled land is to be vested in a tenant for life of full age or statutory owner, whether the land was registered before or after the commencement of this Act, and the registered proprietor of settled land (not being the tenant for life of full age or statutory owner entitled to the same) shall be bound to make such transfers as may be required for giving effect to the rights of the tenant for life of full age or statutory owner :

Provided that, where the registered land is not, at the commencement of this Act, registered in the name of a personal representative, or a tenant for life of full age or statutory owner, who if the land were not registered, would by virtue of Part. I. of the Law of Property Act, 1922, be entitled to have the settled land vested in him, then any such person shall (without any transfer) be entitled to be registered as proprietor thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration in the register.

Provisions as o infants.

3. The following provisions shall have effect where an infant is or is deemed to be a tenant for life or would if he were of full age have the powers of a tenant for life :—

(i) The personal representatives under the will or an intestacy under which the settlement is created or arises shall, during the minority and in reference to the settled land, have all the powers conferred by the Settled Land Acts on a tenant for life and on the trustees of the settlement, and shall be registered as proprietors thereof during the minority ; but if and when the personal representatives would, if the infant had been of full age, have been bound to transfer the land to him, then the personal representatives shall thenceforth during the minority give effect on the register to the directions of the statutory owner, and shall apply for the registration of any restriction which may be prescribed, but shall not be concerned with the propriety of any registered disposition so directed to be made if the same appears to be a proper disposition under the powers of the statutory owner and the capital money (if any) arising under the disposition is paid to the trustees of the settlement or into court ; but a purchaser dealing with the personal representatives, who complies with the restriction (if any) which may be entered on the register, shall not be concerned to see or enquire whether any such directions have been given.

(ii) If an infant becomes entitled in possession (or will become entitled in possession on attaining full age) to registered land otherwise than on a death, then the trustees of the settlement by whom the powers of a tenant for life are exerciseable during the minority shall be entitled to require the settled land, to which such powers extend, to be transferred to them and shall be registered as proprietors accordingly.

(iii) If and when the registered land would (if not registered) be vested in the trustees of the settlement pursuant to Part I. of the Law of Property Act, 1922, then such trustees shall (unless they are already registered) be entitled to be registered as proprietors thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration in the register.

As to land held on trust or sale.

4.—(1) Where registered land is subject to a trust for sale, express or implied, whether or not there is power to postpone the sale, the land shall be registered in the names of the trustees for sale.

(2) Where an order, in force at the commencement of this Act, has been obtained under section seven of the Settled Land Act, 1884, then the person authorised by the order to exercise any of the powers conferred by the Settled Land Acts, may, in the names and on behalf of the registered proprietors, do all such acts and things under the Acts, as may be requisite for giving effect on the register to the powers authorised to be exercised and in like manner as if such person were registered as proprietor of the land, and a copy of the order shall be filed at the registry.

(3) Where by virtue of Part I. of the Law of Property Act, 1922, registered land is made subject to a trust for sale, the trustees for sale (unless already registered) shall be registered as proprietors thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration of the register, but this subsection shall have effect subject to the provisions of the Acts relating to the registration of the Public Trustee or the removal of an undivided share from the register before the entirety of the land is registered.

As to vesting orders declarations and deeds and dispositions in name of proprietor.

5.—(1) The registrar shall give effect on the register to any vesting order or vesting declaration made on the appointment or discharge of a trustee or otherwise, and to dispositions made in the name and on behalf of a registered proprietor by a person authorised to make the disposition; and the provisions of section twelve of the Trustee Act, 1893 (as amended by any subsequent enactment) shall apply to registered land subject to the proper entry being made on the register.

(2) The Registrar shall also give effect on the register in the prescribed manner to any vesting instrument which may be made pursuant to the Law of Property Act, 1922.

As to the application of compensation money.

6. Where any indemnity is paid under the Acts in respect of settled land, and not in respect of any particular estate, remainder, or reversion therein, the money shall be paid to the trustees of the settlement and be held by them as capital money for the purposes of the Settled Land Acts arising from the settled land.

Land certificates and certificates of charge.

7.—(1) In addition to the cases mentioned in subsection (1) of section eight, land certificates or certificates of charge shall be produced to the registrar to be noted as provided by that subsection, in every case (except as herein-after mentioned) where under section fifty of the Act of 1875 (as amended) or otherwise notice of any estate, right, or claim, or a restriction,

is entered or placed on the register, adversely affecting the title of the proprietor of the land or charge, but not in the case of the lodgment of a caution under section fifty-three of the Act of 1875 or of an inhibition or of a creditor's notice or of the entry of notice of a lease at a rent without taking a fine.

(2) For subsection (3) of section eight the following subsection shall be substituted :—

"A new land certificate or certificate of charge may be issued in place of one lost or destroyed, or in the possession of a person out of the jurisdiction of the Court, on such terms as to advertisement notice or delay as may be prescribed."

(3) The provisions of subsection (4) of section eight (relating to the issue of a new land certificate on sale under the statutory power by a registered proprietor of a charge) shall be extended in the prescribed manner to the cases of an order for foreclosure absolute, of a proprietor of a charge or a mortgagee obtaining a title to the land under the Limitation Acts, and of title being acquired under a title paramount to the registered estate, including titles acquired pursuant to any vesting or other order of the Court.

(4) The words "Subject to any stipulation to the contrary " the proprietor of a registered charge shall not be entitled to " have the custody of the land certificate or to require a land " certificate to be applied for" in subsection (4) of section eight are hereby repealed, and the following words shall be substituted therefor :—

"Where a charge or mortgage (otherwise than by deposit) is registered, or protected by a caution in a specially prescribed form, the land certificate shall be deposited at the registry until the charge, or mortgage, or caution is cancelled."

(5) In the last paragraph of subsection (4) of section eight (relating to mortgages by deposit), the words "subject to the " overriding interests (if any), to any entry to the contrary on " the register and to any estates, interests, charges, or rights " registered or protected on the register at the date of the " deposit" are hereby substituted for the words "subject to any " registered estates, charges, or rights."

Transfers and charges.

8.—(1) In subsection (1) of section nine after the words "with power of sale shall" the words "without prejudice to the powers conferred by the Acts on the proprietor of such charge" are hereby inserted.

(2) The following words shall be inserted in subsection (2) of section nine, after the words "the same Act," namely, "as amended and extended by the Conveyancing Act, 1911."

(3) The following words shall be added at the end of subsection (3) of section nine, namely:—

"This subsection shall not authorise a charge of an annuity or other periodical payment for life or lives or for a term of years determinable with life or lives or other determinable life interest, but such a charge shall nevertheless be capable of being created in equity as a minor interest."

(4) The following words shall be added at the end of subsection (6) of section nine, namely:—

"Rules may be made for extending the provisions of this subsection to the case of any person entitled to be registered as first proprietor, and to any other case which it may be deemed expedient to prescribe for."

Applications, &c., by unqualified persons.

9. The words "or makes any application or lodges any document at the registry" are hereby inserted in section ten of the Act of 1897, after the words "other prescribed instrument" and that section shall have effect accordingly.

Restriction on number of trustees and description of registered land.

10.—(1) The provisions of the Law of Property Act, 1922, affecting the number of the persons entitled to hold land on trust for sale, and the number of trustees of a settlement shall apply to registered land.

(2) Subsection (1) of section fourteen shall not authorise the registration of undivided shares after the commencement of this Act.

(3) Subsection (2) of section fourteen is hereby repealed, and the following provision shall be substituted therefor:—

"(2) Registered land may be described by means of a verbal description and a filed plan, or general map, based on the ordnance map, or by reference to a deed or other document, a copy or extract whereof is filed at the registry containing a sufficient description thereof, and a plan or map or otherwise as the applicant for registration may desire, and the registrar, or the court, if the applicant prefers, may approve, regard being had to ready identification of parcels, correct descriptions of boundaries, and, so far as may be, uniformity of practice; but whenever practicable the boundaries of all freehold land and all requisite details in relation to the same shall be entered on

the register or filed plan, or general map, and the filed plan (if any), or general map, shall be used for assisting the identification of the land."

Exceptions in regard to compulsory registration.

11.—(1) In subsection (1) of section twenty-four the words "or two lives yet to fall in, or to an undivided share in land" are hereby repealed.

(2) Subsection (2) of section twenty-four is hereby repealed.

CHAPTER 17.

An Act to grant certain Duties of Customs and Inland Revenue (including Excise), to alter other Duties, and to amend the Law relating to Customs and Inland Revenue (including Excise), and the National Debt, and to make further provision in connection with Finance.

[20th July 1922.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King'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:—

PART I.

CUSTOMS AND EXCISE.

Duty on tea. 9 & 10 Geo. 5. c. 32.

1. In lieu of the duty of customs payable on tea imported into Great Britain or Ireland there shall, subject to the provisions of section eight of the Finance Act, 1919 (which relates to imperial preferential rates), be charged, levied and paid as from the fifteenth day of