2ND SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
12 & 13 Geo. 5. c. 16.	The Law of Property Act, 1922.	Subsection (4) of section eighty-three, section eighty-eight; Part IV., except subsection (7) of section one hundred and ten, subsection (3) of section one hundred and thirteen, and subsection (5) of section one hundred and twenty-three.
12 & 13 Geo. 5. c. 60.	The Lunacy Act, 1922 -	Subsections (3) (4) and (5) of section two.
15 Geo. 5. c. 5.	The Law of Property (Amendment) Act, 1924.	Section five and the Fifth Schedule.

CHAPTER 20.

An Act to consolidate the enactments relating to Conveyancing and the Law of Property in England and Wales. [9th April 1925.]

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.

GENERAL PRINCIPLES AS TO LEGAL ESTATES, EQUITABLE INTERESTS AND POWERS.

Legal estates and equitable interests.

1.—(1) The only estates in land which are capable of subsisting or of being conveyed or created at law are—

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

(*b*) A term of years absolute.

(2) The only interests or charges in or over land which are capable of subsisting or of being conveyed or created at law are—

(*a*) An easement, right, or privilege in or over land for an interest equivalent to an estate in fee

simple absolute in possession or a term of years absolute;

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

(*c*) A charge by way of legal mortgage;

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

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

(3) All other estates, interests, and charges in or over land take effect as equitable interests.

(4) 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 have the same incidents as legal estates subsisting at the commencement of this Act; and the owner of a legal estate is referred to as "an estate owner" and his legal estate is referred to as his estate.

(5) 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 before the commencement of this Act.

(6) A legal estate is not capable of subsisting or of being created in an undivided share in land or of being held by an infant.

(7) 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 an estate owner in right of his estate and exercisable by him or by another person in his name and on his behalf), operates only in equity.

(8) 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."

(9) 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 a person of full age upon the requisite trusts.

(10) The repeal of the Statute of Uses (as amended) does not affect the operation thereof in regard to dealings taking effect before the commencement of this Act.

Conveyances overreaching certain equitable interests and powers. 15 Geo. 5. c. 18.

2.—(1) A conveyance to a purchaser of a legal estate in land shall overreach any equitable interest or power affecting that estate, whether or not he has notice thereof, if—

(i) the conveyance is made under the powers conferred by the Settled Land Act, 1925, or any additional powers conferred by a settlement, and the equitable interest or power is capable of being overreached thereby, and the statutory requirements respecting the payment of capital money arising under the settlement are complied with;

(ii) the conveyance is made by trustees for sale and the equitable interest or power is at the date of the conveyance capable of being overreached by such trustees under the provisions of subsection (2) of this section or independently of that subsection, and the statutory requirements respecting the payment of capital money arising under a disposition upon trust for sale are complied with;

(iii) the conveyance is made by a mortgagee or personal representative in the exercise of his paramount powers, and the equitable interest or power is capable of being overreached by such conveyance, and any capital money arising from the transaction is paid to the mortgagee or personal representative;

(iv) the conveyance is made under an order of the court and the equitable interest or power is bound by such order, and any capital money arising from the transaction is paid into, or in accordance with the order of, the court.

(2) Where the legal estate affected is not, when the equitable interest or power is created, subject to a trust for sale or a settlement, then, if the estate owner, whether before or after the commencement of this Act, disposes of his estate to trustees upon trust for sale,

and at the date of a conveyance made, after such commencement, under the disposition upon trust for sale the trustees (whether original or substituted) are either—

(*a*) two or more individuals approved or appointed by the court or the successors in office of the individuals so approved or appointed; or

(*b*) a trust corporation,

such equitable interest or power shall, notwithstanding any stipulation to the contrary, be overreached by the conveyance, and shall, according to its priority, 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.

(3) The following equitable interests and powers are excepted from the operation of subsection (2) of this section, namely—

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

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

(iii) Any easement, liberty, or privilege over or affecting land and being merely an equitable interest (in this Act referred to as an "equitable easement");

(iv) The benefit of any contract (in this Act referred to as an "estate contract") to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option to purchase, a right of pre-emption, or any other like right;

(v) Any equitable interest protected by registration under the Land Charges Act, 1925, other than—

(*a*) an annuity within the meaning of Part II. of that Act;

(*b*) a limited owner's charge or a general equitable charge within the meaning of that Act.

(4) Subject 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.

(5) So far as regards the following interests, created before the commencement of this Act (which accordingly

are not within the provisions of the Land Charges Act, 1925), namely— 15 Geo. 5. c. 22.

(*a*) the benefit of any covenant or agreement restrictive of the user of the land;

(*b*) any equitable easement;

(*c*) the interest under a puisne mortgage within the meaning of the Land Charges Act, 1925, unless and until acquired under a transfer made after the commencement of this Act;

(*d*) the benefit of an estate contract, unless and until the same is acquired under a conveyance made after the commencement of this Act;

a purchaser of a legal estate shall only take subject thereto if he has notice thereof, and the same are not overreached under the provisions contained or in the manner referred to in this section.

Manner of giving effect to equitable interests and powers.

3.—(1) All equitable interests and powers in or over land shall be enforceable against the estate owner of the legal estate affected in manner following (that is to say):—

(*a*) Where the legal estate affected is settled land, the tenant for life or statutory owner shall be bound to give effect to the equitable interests and powers in manner provided by the Settled Land Act, 1925;

(*b*) Where the legal estate affected is vested in trustees for sale—

(i) The trustees 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 respectively, of which they have notice, and whether created before or after the disposition upon trust for sale, 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 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 cannot require the land to be conveyed to them in undivided shares, but may (subject to effect being given 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:

(*c*) Where the legal estate affected is neither settled land nor vested in trustees for sale, the estate owner shall be bound to give effect to the equitable interests and powers affecting his estate of which he has notice according to their respective priorities. This provision does not affect the priority or powers of a legal mortgagee, or the powers of personal representatives for purposes of administration.

(2) Effect may be given by means of a legal mortgage to an agreement for a mortgage, charge or lien (whether or not arising by operation of law) if the agreement, charge or lien ought to have priority over the trust for sale.

(3) Where, by reason of a statutory or other right of reverter, or of an equitable right of entry taking effect, or for any other reason, 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 bound to convey or create such legal estate as the case may require.

(4) 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.

(5) If the trustees for sale 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.

(6) This section does not affect a purchaser of a legal estate taking free from an equitable interest or power.

Creation and disposition of equitable interests.

4.—(1) 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 statute, 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:

Provided that, after the commencement of this Act (and save as hereinafter expressly enacted), an equitable interest in land shall only be capable of being validly created in any case in which an equivalent equitable interest in property real or personal could have been validly created before such commencement.

(2) All rights and interests in land may be disposed of, including—

(*a*) a contingent, executory or future equitable interest in any land, or a possibility coupled with an interest in any land, whether or not the object of the gift or limitation of such interest or possibility be ascertained;

(*b*) a right of entry, into or upon land whether immediate or future, and whether vested or contingent.

(3) All rights of entry affecting a legal estate which are exercisable on condition broken or for any other

reason may after the commencement of this Act, be made exercisable by any person and the persons deriving title under him, 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.

Satisfied terms, whether created out of freehold or leasehold land to cease.

5.—(1) Where the purposes of a term of years created or limited at any time out of freehold land, become satisfied either before or after the commencement of this Act (whether or not that term either by express declaration or by construction of law becomes attendant upon the freehold reversion) it shall merge in the reversion expectant thereon and shall cease accordingly.

(2) Where the purposes of a term of years created or limited, at any time, out of leasehold land, become satisfied after the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly.

(3) Where the purposes are satisfied only as respects part of the land comprised in a term, this section shall have effect as if a separate term had been created in regard to that part of the land.

Saving of lessors' and lessees' covenants.

6.—(1) Nothing in this Part of this Act affects prejudicially 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), contained in any such instrument as is in this section mentioned, the benefit or burden of which runs with the reversion or the term.

(2) This section applies where the covenant, agreement or condition is contained in any instrument—

(*a*) creating a term of years absolute, or

(*b*) varying the rights of the lessor or lessee under the instrument creating the term.

Saving of certain legal estates and statutory powers.

7.—(1) A fee simple which, by virtue of the Lands Clauses Acts, the School Sites Acts, or any similar statute, is liable to be divested, is for the purposes of this Act a fee simple absolute, and remains liable to be divested as if this Act had not been passed.

(2) A fee simple vested in a corporation which is liable to determine by reason of the dissolution of the corporation is, for the purposes of this Act, a fee simple absolute.

(3) The provisions of—

(*a*) the Forfeiture Act, 1870, in regard to the land of a convict; 33 & 34 Vict. c. 23.

(*b*) the Friendly Societies Act, 1896, in regard to land to which that Act applies; 59 & 60 Vict. c. 25.

(*c*) any other statutes conferring special facilities or prescribing special 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 land in trustees or any person, or the holder for the time being of an office or any corporation sole or aggregate (including the Crown);

shall remain in full force.

This subsection does not authorise an entailed interest to take effect otherwise than as an equitable interest.

(4) Where any such power for disposing of or creating a legal estate is exercisable by a person who is not the estate owner, the power shall, when practicable, be exercised in the name and on behalf of the estate owner.

Saving of certain legal powers to lease.

8.—(1) All leases or tenancies at a rent for a term of years absolute authorised to be granted by a mortgagor or mortgagee or by the Settled Land Act, 1925, 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; but this section does 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.

(2) Where a rentcharge is held for a legal estate, the owner thereof may under the statutory power 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 any such power shall, unless and until the estate owner of the land charged gives legal effect to the transaction, take effect only as equitable interests.

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

9.—(1) Every such order, declaration, or conveyance as is hereinafter mentioned, namely—

(*a*) every vesting order made by any court or other competent authority;

(*b*) every vesting declaration (express or implied) under any statutory power;

(*c*) every vesting instrument made by the trustees of a settlement or other persons under the provisions of the Settled Land Act, 1925;

(*d*) every 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;

(*e*) every conveyance made under any power reserved or conferred by 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, vesting instrument, or conveyance relates.

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

15 Geo. 5. c. 19.

(3) The provisions of the Trustee Act, 1925, 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.

Title to be shown to legal estates.

10.—(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 estate to which title is being shown; but nothing in this Part of this Act affects 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 Part of 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 as respects legal estates.

11.—(1) It shall not be necessary to register a memorial of any instrument made after the commencement of this Act 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 affect any priority.

(2) Probates and letters of administration shall be treated as instruments capable of transferring a legal estate to personal representatives.

(3) Memorials of all instruments capable of transferring or creating a legal estate or charge by way of legal mortgage, may, when so operating, be registered.

Limitation and Prescription Acts.

12. Nothing in this Part of this Act affects the operation of any statute, or of the general law for the limitation of actions or proceedings relating to land or with reference to the acquisition of easements or rights over or in respect of land.

Effect of possession of documents.

13. 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 a legal estate in 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 a legal estate in land.

Interests of persons in possession

14. 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.

Presumption that parties are of full age.

15. The persons expressed to be parties to any conveyance shall, until the contrary is proved, be presumed to be of full age at the date thereof.

Death Duties.

Liability for death duties.

16.—(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 any statute 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, being a conveyance to a purchaser made under the Settled Land Act, 1925, or pursuant to a trust for sale.

(3) 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.

(4) 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 Commissioners of Inland Revenue against any person other than a purchaser or a person deriving title under him.

(5) Notwithstanding that any duties are by this section made payable by the personal representative or other person aforesaid, nothing in this Part of 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.

(6) Nothing in this Part of this Act shall impose on a personal representative, tenant for life, 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 may 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.

(7) 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 duties 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.

Protection of purchasers from liability for death duties.

17.—(1) 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.

(2) 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 in this Act 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.

(3) Notwithstanding that any death duties may be payable by instalments, on a conveyance of a legal estate by way of sale exchange or legal mortgage all death duties payable in respect of the land dealt with and remaining unpaid shall, if the charge for the duties is over-reached by such conveyance, 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, such excess shall be repaid or allowed as a deduction by the Commissioners of Inland Revenue.

(4) 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 duties and interest, if any, notwithstanding that the charge for duties may not have been registered.

(5) This section does not apply to registered land.

Application of capital money in discharge of death duties.

18.—(1) 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 any death duties may have become payable, and personal estate held on the same trusts as the proceeds of sale of land, being land held on trust for sale in respect of which any such duties may have become payable, may, by the direction of the tenant for life, 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.

(2) Where the duties would not, except by virtue of the last subsection, be payable out of the capital money or personal estate aforesaid—

(*a*) 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, or, where the land has been conveyed to a purchaser, would have been paid if the land had not been so conveyed;

(*b*) the interest 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;

(*c*) 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.

Infants and Lunatics.

Effect of conveyances of legal estates to infants.

19.—(1) A conveyance of a legal estate in land to an infant alone or to two or more persons jointly both or all of whom are infants, shall have such operation as is provided for in the Settled Land Act, 1925.

(2) A conveyance of a legal estate in land to an infant, jointly with one or more other persons of full age, shall operate to vest the legal estate in the other

person or persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale, or affect the right of a tenant for life or statutory owner to have settled land vested in him.

(3) The foregoing provisions of this section do not apply to conveyances on trust or by way of mortgage.

(4) A conveyance of a legal estate to an infant alone or to two or more persons jointly, both or all of whom are infants, on any trusts, shall operate as a declaration of trust and shall not be effectual to pass any legal estate.

(5) A conveyance of a legal estate in land to an infant jointly with one or more other persons of full age on any trusts shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the land intended to be thereby provided for the infant.

(6) A grant or transfer of a legal mortgage of land to an infant 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 of full age, 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.

Infants not to be appointed trustees.

20. 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.

Receipts by married infants.

21. 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

22.—(1) Where a legal estate in land (whether settled or not) is vested in a lunatic, or a defective, either solely or jointly with any other person or persons,

Lunatics and defectives and as to land held by them on trust for sale.

his committee or receiver shall, under an order in lunacy or of the court, 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, or a defective, either solely or jointly with any other person or 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.

Dispositions on Trust for Sale.

Duration of trusts for sale.

23. Where land has, either before or after the commencement of this Act, become subject to an express or implied trust for sale, such trust shall, so far as regards the safety and protection of any purchaser thereunder, be deemed to be subsisting until the land has been conveyed to or under the direction of the persons interested in the proceeds of sale.

This section applies to sales whether made before or after the commencement of this Act, but operates without prejudice to an order of any court restraining a sale.

Appointment of trustees of dispositions on trust for sale.

24.—(1) The persons having power to appoint new trustees of a conveyance of land 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.

Power to postpone sale.

25.—(1) A power to postpone sale shall, in the case of every trust for sale of land, be implied unless a contrary intention appears.

(2) 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 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 a sale.

(3) The foregoing provisions of this section apply whether the trust for sale is created before or after the commencement or by virtue of this Act.

(4) Where a disposition or settlement coming into operation after the commencement of this Act contains a trust either to retain or sell land the same shall be construed as a trust to sell the land with power to postpone the sale.

Consents to the execution of a trust for sale.

26.—(1) If the consent of more than two persons is by the disposition made requisite 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) Where the person whose consent to the execution of any such trust or power is expressed to be required in a disposition is not sui juris or becomes subject to disability, his consent 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) 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

27.—(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 sale which are to be paid to two or more trustees or to a trust corporation.

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) Notwithstanding anything to the contrary in a disposition on trust for sale of land or in the settlement of the net proceeds, the proceeds of sale or other capital money arising under the disposition shall not be paid to or applied by the direction of fewer than two persons as trustees of the disposition, except where the trustee is a trust corporation, 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, &c. conferred on trustees for sale.

28.—(1) Trustees for sale shall, in relation to land or to manorial incidents and to the proceeds of sale, have all the powers of a tenant for life and the trustees of a settlement under the Settled Land Act, 1925, including in relation to the land the powers of management conferred by that Act during a minority: and (subject to any express trust to the contrary) all capital money arising under the said powers shall, unless paid or applied for any purpose authorised by the Settled Land Act, 1925, be applicable in the same manner as if the money represented proceeds of sale arising under the trust for sale.

All land acquired under this subsection shall be conveyed to the trustees on trust for sale.

The powers conferred by this subsection 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 or otherwise made to attach to the net proceeds of sale as if created by a trust affecting those proceeds.

(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 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 Act, 1925, 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:—

(*a*) partition the land remaining unsold or any part thereof; and

(*b*) 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 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—

(i) 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:

(ii) 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 they may consider expedient.

(4) 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, but in other respects the foregoing power shall apply as if the infant had been of full age.

(5) This section applies to dispositions on trust for sale coming into operation either before or after the commencement or by virtue of this Act.

Delegation of powers of management by trustees for sale.

29.—(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 entitled in possession to 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 power.

(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 that person 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.

47 & 48 Vict. c. 18.

(4) Where, at the commencement of this Act, an order made under section seven of the Settled Land Act, 1884, is in force, the person on whom any power is thereby conferred shall, while the order remains in force, exercise such power in the names and on behalf of the trustees for sale in like manner as if the power had been delegated to him under this section.

Powers of court where trustees for sale refuse to exercise powers.

30. If the trustees for sale refuse to sell or to exercise any of the powers conferred by either of the last two sections, or any requisite consent cannot be obtained, 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.

Trust for sale of mortgaged property where right of redemption is barred.

31.—(1) Where any property, vested in trustees by way of security, becomes, by virtue of the statutes of limitation, or of an order for foreclosure or otherwise, discharged from the right of redemption, it shall be held by them on trust for sale.

(2) The net proceeds of sale, after payment of costs and expenses, shall be applied in like manner as the mortgage debt, if received, would have been applicable, and the income of the property until sale shall be applied in like manner as the interest, if received, would have been applicable; but this subsection operates without prejudice to any rule of law relating to the apportionment of capital and income between tenant for life and remainderman.

(3) This section does not affect the right of any person to require that, instead of a sale, the property shall be conveyed to him or in accordance with his directions.

(4) Where the mortgage money is capital money for the purposes of the Settled Land Act, 1925, the trustees shall, if the tenant for life or statutory owner so requires, instead of selling any land forming the whole or part of such property, execute such subsidiary vesting deed with respect thereto as would have been required if the land had been acquired on a purchase with capital money.

(5) This section applies whether the right of redemption was discharged before or after the first day of January, nineteen hundred and twelve, but has effect without prejudice to any dealings or arrangements made before that date.

Implied trust for sale in personalty settlements.

32.—(1) Where a settlement of personal property or of land held upon trust for sale contains a power to invest money in the purchase of land, such land shall, unless the settlement otherwise provides, be held by the trustees on trust for sale; and the net rents and profits until sale, after keeping down costs of repairs and insurance and other outgoings, shall be paid or applied 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 in personal estate.

(2) This section applies to settlements (including wills) coming into operation after the thirty-first day of December, nineteen hundred and eleven, and does not apply to capital money arising under the Settled Land Act, 1925, or money liable to be treated as such.

Application of Pt. I. to personal representatives.

33. The provisions of this Part of this Act relating to trustees for sale apply to personal representatives holding on trust for sale, but without prejudice to their rights and powers for purposes of administration.

Undivided Shares and Joint Ownership.

Effect of future dispositions to tenants in common.

34.—(1) An undivided share in land shall not be capable of being created except as provided by the Settled Land Act, 1925, or as hereinafter mentioned.

(2) Where, after the commencement of this Act, land is expressed to be conveyed to any persons in undivided shares and those persons are of full age, 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, or, if there are more than four grantees, to the four first named in the conveyance, as joint tenants upon the statutory trusts hereinafter mentioned and so as to give effect to the rights of the persons who would have been entitled to the shares had the conveyance operated to create those shares:

Provided that, where the conveyance is made by way of mortgage the land shall vest in the grantees or such four of them as aforesaid for a term of years absolute (as provided by this Act) 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.

(3) A devise bequest or testamentary appointment, coming into operation after the commencement of this Act, of land to two or more persons in undivided shares shall operate as a devise bequest or appointment of the land to the trustees (if any) of the will for the purposes of the Settled Land Act, 1925, or, if there are no such trustees, 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 hereinafter mentioned.

(4) Any disposition purporting to make a settlement of an undivided share in land 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.

Meaning of the statutory trusts.

35. For the purposes of this Act land held upon the "statutory trusts" shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same 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 an incumbrancer of a former undivided share or whose incumbrance is not secured by a legal mortgage) interested in the land.

Joint tenancies.

36.—(1) Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants, the same shall be held on trust for 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.

(2) 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 joint tenants, or the right to sever a joint tenancy in an equitable interest whether or not the legal estate is vested in the joint tenants:

Provided that, 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 shall give to the other joint tenants 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 under the trust for sale affecting the land 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.

(3) Without prejudice to the right of a joint tenant to release his interest to the other joint tenants no severance of a mortgage term or trust estate, so as to create a tenancy in common, shall be permissible.

Rights of husband and wife.

37. A husband and wife shall, for all purposes of acquisition of any interest in property, under a disposition made or coming into operation after the commencement of this Act, be treated as two persons.

Party structures.

38.—(1) Where under a disposition or other arrangement which, if a holding in undivided shares had been permissible, would have created a tenancy in common, a wall or other structure is or is expressed to be made a party wall or structure, that structure shall be and remain severed vertically as between the respective owners, and the owner of each part shall have such rights to support and user over the rest of the structure as may be requisite for conferring rights corresponding to those which would have subsisted if a valid tenancy in common had been created.

(2) Any person interested may, in case of dispute, apply to the court for an order declaring the rights and interests under this section of the persons interested in any such party structure, and the court may make such order as it thinks fit.

Transitional Provisions.

Transitional provisions in First Schedule. 12 & 13 Geo. 5. c. 16.

39. For the purpose of effecting the transition from the law existing prior to the commencement of the Law of Property Act, 1922, to the law enacted by that Act (as amended), the provisions set out in the First Schedule to this Act shall have effect—

(1) for converting existing legal estates, interests and charges not capable under the said Act of taking effect as legal interests into equitable interests;

(2) for discharging, getting in or vesting outstanding legal estates;

(3) for making provision with respect to legal estates vested in infants;

(4) for subjecting land held in undivided shares to trusts for sale;

(5) for dealing with party structures and open spaces held in common:
(6) for converting tenancies by entireties into joint tenancies;
(7) for converting existing freehold mortgages into mortgages by demise;
(8) for converting existing leasehold mortgages into mortgages by sub-demise.

PART II.

CONTRACTS, CONVEYANCES AND OTHER INSTRUMENTS.

Contracts.

Contracts for sale, &c. of land to be in writing.

40.—(1) No action may be brought upon any contract for the sale or other disposition of land or any interest in land, unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and signed by the party to be charged or by some other person thereunto by him lawfully authorised.

(2) This section applies to contracts whether made before or after the commencement of this Act and does not affect the law relating to part performance, or sales by the court.

Stipulations not of the essence of a contract.

41. Stipulations in a contract, as to time or otherwise, which according to rules of equity are not deemed to be or to have become of the essence of the contract, are also construed and have effect at law in accordance with the same rules.

Provisions as to contracts.

42.—(1) A stipulation that a purchaser of a legal estate in land shall accept a title made with the concurrence of any person entitled to an equitable interest shall be void, if a title can be made discharged from the equitable interest without such concurrence—

(*a*) under a trust for sale; or
(*b*) under this Act, or the Settled Land Act, 1925, or any other statute.

(2) A stipulation that a purchaser of a legal estate in land shall pay or contribute towards the costs of or incidental to—

(*a*) obtaining a vesting order, or the appointment of trustees of a settlement, or the appointment of trustees of a conveyance on trust for sale; or

(*b*) the preparation stamping or execution of a conveyance on trust for sale, or of a vesting instrument for bringing into force the provisions of the Settled Land Act, 1925;

shall be void.

(3) A stipulation contained in any contract for the sale or exchange of land made after the commencement of this Act, to the effect that an outstanding legal estate is to be traced or got in by or at the expense of a purchaser or that no objection is to be taken on account of an outstanding legal estate, shall be void.

(4) If the subject matter of any contract for the sale or exchange of land—

(i) is a mortgage term and the vendor has power to convey the fee simple in the land, or, in the case of a mortgage of a term of years absolute, the leasehold reversion affected by the mortgage, the contract shall be deemed to extend to the fee simple in the land or such leasehold reversion;

(ii) is an equitable interest capable of subsisting as a legal estate, and the vendor has power to vest such legal estate in himself or in the purchaser or to require the same to be so vested, the contract shall be deemed to extend to such legal estate;

(iii) is an entailed interest in possession and the vendor has power to vest in himself or in the purchaser the fee simple in the land, (or, if the entailed interest is an interest in a term of years absolute, such term,) or to require the same to be so vested, the contract shall be deemed to extend to the fee simple in the land or the term of years absolute.

(5) This section does not affect the right of a mortgagee of leasehold land to sell his mortgage term only if he is unable to convey or vest the leasehold reversion expectant thereon.

(6) Any contract to convey an undivided share in land made before or after the commencement of this Act, 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 to convey that corresponding share.

(7) Where a purchaser has power to acquire land compulsorily, and a contract, whether by virtue of a notice to treat or otherwise, is subsisting under which title can be made without payment of the compensation money into court, title shall be made in that way unless the purchaser, to avoid expense or delay or for any special reason, considers it expedient that the money should be paid into court.

(8) A vendor shall not have any power to rescind a contract by reason only of the enforcement of any right under this section.

(9) This section only applies in favour of a purchaser for money or money's worth.

Rights protected by registration.

43.—(1) 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 pending action, annuity, writ, order, deed of arrangement or land charge, and which will not be over-reached by the conveyance to him, he may notwithstanding any stipulation to the contrary, require—

(*a*) that the registration shall be cancelled; or

(*b*) that the person entitled to the equitable interest shall concur in the conveyance;

and in either case free of expense to the purchaser.

(2) Where the registration cannot be cancelled or the person entitled to the equitable interest refuses to concur in the conveyance, this section does not affect the right of any person to rescind the contract.

Statutory commencements of title.

44.—(1) After the commencement of this Act thirty years shall be substituted for forty years as the period of commencement of title which a purchaser of land may require; nevertheless earlier title than thirty years may be required in cases similar to those in which earlier title than forty years might immediately before the commencement of this Act be required.

(2) Under a contract to grant or assign a term of years, whether derived or to be derived out of freehold or leasehold land, the intended lessee or assign shall not be entitled to call for the title to the freehold.

(3) Under a contract to sell and assign a term of years derived out of a leasehold interest in land, the intended assign shall not have the right to call for the title to the leasehold reversion.

(4) On a contract to grant a lease for a term of years to be derived out of a leasehold interest, with a leasehold reversion, the intended lessee shall not have the right to call for the title to that reversion.

(5) Where by reason of any of the three last preceding subsections, an intending lessee or assign is not 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.

(6) Where land of copyhold or customary tenure has been converted into freehold by enfranchisement, then, under a contract to sell and convey the freehold, the purchaser shall not have the right to call for the title to make the enfranchisement.

(7) 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 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.

(8) 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, or by any rule of law, he might have had notice, unless he actually makes such investigation or enquiries.

(9) Where a lease whether made before or after the commencement of this Act, is made under a power contained in a settlement, will, Act of Parliament, or other instrument, any preliminary contract for or relating to the lease shall not, for the purpose of the

deduction of title to an intended assign, form part of the title, or evidence of the title, to the lease.

(10) This section, save where otherwise expressly provided, applies to contracts for sale whether made before or after the commencement of this Act, and applies to contracts for exchange in like manner as to contracts for sale, save that it applies only to contracts for exchange made after such commencement.

(11) This section applies only if and so far as a contrary intention is not expressed in the contract.

Other statutory conditions of sale.

45.—(1) A purchaser of any property shall not—

(*a*) require the production, or any abstract or copy, of any deed, will, or other document, dated or made before the time prescribed by law, or stipulated, for the commencement of the title, even though the same creates a power subsequently exercised by an instrument abstracted in the abstract furnished to the purchaser; or

(*b*) require any information, or make any requisition, objection, or inquiry, with respect to any such deed, will, or document, or the title prior to that time, notwithstanding that any such deed, will, or other document, or that prior title, is recited, agreed to be produced, or noticed;

and he shall assume, unless the contrary appears, that the recitals, contained in the abstracted instruments, of any deed, will, or other document, forming part of that prior title, are correct, and give all the material contents of the deed, will, or other document so recited, and that every document so recited was duly executed by all necessary parties, and perfected, if and as required, by fine, recovery, acknowledgment, inrolment, or otherwise:

Provided that this subsection shall not deprive a purchaser of the right to require the production, or an abstract or copy of—

(i) any power of attorney under which any abstracted document is executed; or

(ii) any document creating or disposing of an interest, power or obligation which is not shown to have ceased or expired, and subject to which any part of the property is disposed of by an abstracted document; or

(iii) any document creating any limitation or trust by reference to which any part of the property is disposed of by an abstracted document.

(2) Where land sold is held by lease (other than an under-lease), the purchaser shall assume, unless the contrary appears, that the lease was duly granted; and, on production of the receipt for the last payment due for rent under the lease before the date of actual completion of the purchase, he shall assume, unless the contrary appears, that all the covenants and provisions of the lease have been duly performed and observed up to the date of actual completion of the purchase.

(3) Where land sold is held by under-lease, the purchaser shall assume, unless the contrary appears, that the under-lease and every superior lease were duly granted; and, on production of the receipt for the last payment due for rent under the under-lease before the date of actual completion of the purchase, he shall assume, unless the contrary appears, that all the covenants and provisions of the under-lease have been duly performed and observed up to the date of actual completion of the purchase, and further that all rent due under every superior lease, and all the covenants and provisions of every superior lease, have been paid and duly performed and observed up to that date.

(4) On a sale of any property, the following expenses shall be borne by the purchaser where he requires them to be incurred for the purpose of verifying the abstract or any other purpose, that is to say—

(*a*) the expenses of the production and inspection of all Acts of Parliament, inclosure awards, records, proceedings of courts, court rolls, deeds, wills, probates, letters of administration, and other documents, not in the possession of the vendor or his mortgagee or trustee, and the

expenses of all journeys incidental to such production or inspection; and

(*b*) the expenses of searching for, procuring, making, verifying, and producing all certificates, declarations, evidences, and information not in the possession of the vendor or his mortgagee or trustee, and all attested, stamped, office, or other copies or abstracts of, or extracts from, any Acts of Parliament or other documents aforesaid, not in the possession of the vendor or his mortgagee or trustee;

and where the vendor or his mortgagee or trustee retains possession of any document, the expenses of making any copy thereof, attested or unattested, which a purchaser requires to be delivered to him, shall be borne by that purchaser.

(5) On a sale of any property in lots, a purchaser of two or more lots, held wholly or partly under the same title, shall not have a right to more than one abstract of the common title, except at his own expense.

(6) Recitals, statements, and descriptions of facts, matters, and parties contained in deeds, instruments, Acts of Parliament, or statutory declarations, twenty years old at the date of the contract, shall, unless and except so far as they may be proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters, and descriptions.

(7) The inability of a vendor to furnish a purchaser with an acknowledgment of his right to production and delivery of copies of documents of title or with a legal covenant to produce and furnish copies of documents of title shall not be an objection to title in case the purchaser will, on the completion of the contract, have an equitable right to the production of such documents.

(8) Such acknowledgments of the right of production or covenants for production and such undertakings or covenants for safe custody of documents as the purchaser can and does require shall be furnished or made at his expense, and the vendor shall bear the expense of perusal and execution on behalf of and by himself, and on behalf of and by necessary parties other than the purchaser.

(9) A vendor shall be entitled to retain documents of title where—

(*a*) he retains any part of the land to which the documents relate; or

(*b*) the document consists of a trust instrument or other instrument creating a trust which is still subsisting, or an instrument relating to the appointment or discharge of a trustee of a subsisting trust.

(10) This section applies to contracts for sale made before or after the commencement of this Act, and applies to contracts for exchange in like manner as to contracts for sale, except that it applies only to contracts for exchange made after such commencement:

Provided that this section shall apply subject to any stipulation or contrary intention expressed in the contract.

(11) Nothing in this section shall be construed as binding a purchaser to complete his purchase in any case where, on a contract made independently of this section, and containing stipulations similar to the provisions of this section, or any of them, specific performance of the contract would not be enforced against him by the court.

Forms of contracts and conditions of sale.

46. 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 shall, subject to any modification, or any stipulation or intention to the contrary, expressed in the correspondence, 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.

Application of insurance money on completion of a sale or exchange.

47.—(1) Where after the date of any contract for sale or exchange of property, money becomes payable under any policy of insurance maintained by the vendor in respect of any damage to or destruction of property included in the contract, the money shall, on completion of the contract, 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 exchange, or so soon thereafter as the same shall be received by the vendor.

(2) This section applies only to contracts made after the commencement of this Act, and has effect subject to—

(*a*) any stipulation to the contrary contained in the contract,

(*b*) any requisite consents of the insurers,

(*c*) the payment by the purchaser of the proportionate part of the premium from the date of the contract.

(3) This section applies to a sale or exchange by an order of the court, as if—

(*a*) for references to the "vendor" there were substituted references to the "person bound by the order";

(*b*) for the reference to the completion of the contract there were substituted a reference to the payment of the purchase or equality money (if any) into court;

(*c*) for the reference to the date of the contract there were substituted a reference to the time when the contract becomes binding.

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

48.—(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:

Provided that nothing in this subsection shall affect any right reserved to 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, the right of a vendor 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—

(*a*) whereby the right of preparing, at the expense of a purchaser, any 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

(*b*) which in any way restricts the right of the purchaser to have such conveyance carried out on his behalf by a solicitor appointed by him ;

shall be void :

Provided that, where any covenant or stipulation is rendered void by this subsection, there shall be implied in lieu thereof a covenant or stipulation that the lessee or underlessee shall register with the lessor or his solicitor within six months from the date thereof, or as soon after the expiration of that period as may be practicable, all conveyances and devolutions (including probates or letters of administration) affecting the lease or underlease 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.

Applications to the court by vendor and purchaser.

49.—(1) A vendor or purchaser of any interest in land, or their representatives respectively, may apply in a summary way to the court, in respect of any requisitions or objections, or any claim for compensation, or any other question arising out of or connected with the contract (not being a question affecting the existence or validity of the contract), and the court may make such order upon the application as to the court may

appear just, and may order how and by whom all or any of the costs of and incident to the application are to be borne and paid.

(2) Where the court refuses to grant specific performance of a contract, or in any action for the return of a deposit, the court may, if it thinks fit, order the repayment of any deposit.

(3) This section applies to a contract for the sale or exchange of any interest in land.

Discharge of incumbrances by the court on sales or exchanges.

50.—(1) Where land subject to any incumbrance, whether immediately realisable or payable or not, is sold or exchanged by the court, or out of court, the court may, if it thinks fit, on the application of any party to the sale or exchange, direct or allow payment into court of such sum as is hereinafter mentioned, that is to say—

(*a*) in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land, the sum to be paid into court shall be of such amount as, when invested in Government securities, the court considers will be sufficient, by means of the dividends thereof, to keep down or otherwise provide for that charge; and

(*b*) in any other case of capital money charged on the land, the sum to be paid into court shall be of an amount sufficient to meet the incumbrance and any interest due thereon;

but in either case there shall also be paid into court such additional amount as the court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency, except depreciation of investments, not exceeding one-tenth part of the original amount to be paid in, unless the court for special reason thinks fit to require a larger additional amount.

(2) Thereupon, the court may, if it thinks fit, and either after or without any notice to the incumbrancer, as the court thinks fit, declare the land to be freed from the incumbrance, and make any order for conveyance, or vesting order, proper for giving effect to the sale or exchange, and give directions for the retention and investment of the money in court and for the payment or application of the income thereof.

(3) The court may declare all other land, if any, affected by the incumbrance (besides the land sold or

exchanged) to be freed from the incumbrance, and this power may be exercised either after or without notice to the incumbrancer, and notwithstanding that on a previous occasion an order, relating to the same incumbrance, has been made by the court which was confined to the land then sold or exchanged.

(4) On any application under this section the court may, if it thinks fit, as respects any vendor or purchaser, dispense with the service of any notice which would otherwise be required to be served on the vendor or purchaser.

(5) After notice served on the persons interested in or entitled to the money or fund in court, the court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

(6) This section applies to sales or exchanges whether made before or after the commencement of this Act, and to incumbrances whether created by statute or otherwise.

Conveyances and other Instruments.

Lands lie in grant only.

51.—(1) All lands and all interests therein lie in grant and are incapable of being conveyed by livery or livery and seisin, or by feoffment, or by bargain and sale; and a conveyance of an interest in land may operate to pass the possession or right to possession thereof, without actual entry, but subject to all prior rights thereto.

(2) The use of the word grant is not necessary to convey land or to create any interest therein.

Conveyances to be by deed.

52.—(1) All conveyances of land or of any interest therein are void for the purpose of conveying or creating a legal estate unless made by deed.

(2) This section does not apply to—

(*a*) assents by a personal representative;

(*b*) disclaimers made in accordance with section fifty-four of the Bankruptcy Act, 1914, or not required to be evidenced in writing;

(*c*) surrenders by operation of law, including surrenders which may, by law, be effected without writing;

(*d*) leases or tenancies or other assurances not required by law to be made in writing;

(*e*) receipts not required by law to be under seal;
(*f*) vesting orders of the court or other competent authority;
(*g*) conveyances taking effect by operation of law.

Instruments required to be in writing.

53.—(1) Subject to the provisions hereinafter contained with respect to the creation of interests in land by parol—

(*a*) no interest in land can be created or disposed of except by writing signed by the person creating or conveying the same, or by his agent thereunto lawfully authorised in writing, or by will, or by operation of law;
(*b*) a declaration of trust respecting any land or any interest therein must be manifested and proved by some writing signed by some person who is able to declare such trust or by his will;
(*c*) a disposition of an equitable interest or trust subsisting at the time of the disposition, must be in writing signed by the person disposing of the same, or by his agent thereunto lawfully authorised in writing or by will.

(2) This section does not affect the creation or operation of resulting, implied or constructive trusts.

Creation of interests in land by parol.

54.—(1) All interests in land created by parol and not put in writing and signed by the persons so creating the same, or by their agents thereunto lawfully authorised in writing, have, notwithstanding any consideration having been given for the same, the force and effect of interests at will only.

(2) Nothing in the foregoing provisions of this Part of this Act shall affect the creation by parol of leases taking effect in possession for a term not exceeding three years (whether or not the lessee is given power to extend the term) at the best rent which can be reasonably obtained without taking a fine.

Savings in regard to last two sections.

55. Nothing in the last two foregoing sections shall—

(*a*) invalidate dispositions by will; or
(*b*) affect any interest validly created before the commencement of this Act; or
(*c*) affect the right to acquire an interest in land by virtue of taking possession; or
(*d*) affect the operation of the law relating to part performance.

Persons taking who are not parties and as to indentures.

56.—(1) A person may take an immediate or other interest in land or other property, or the benefit of any condition, right of entry, covenant or agreement over or respecting land or other property, although he may not be named as a party to the conveyance or other instrument.

(2) A deed between parties, to effect its objects, has the effect of an indenture though not indented or expressed to be an indenture.

Description of deeds.

57. 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 instrument, settlement, mortgage, charge, transfer of mortgage, appointment, lease or otherwise according to the nature of the transaction intended to be effected.

Provisions as to supplemental instruments.

58. Any instrument (whether executed before or after the commencement of this Act) expressed to be supplemental to a previous instrument, shall, as far as may be, be read and have effect as if the supplemental instrument contained a full recital of the previous instrument, but this section does not operate to give any right to an abstract or production of any such previous instrument, and a purchaser may accept the same evidence that the previous instrument does not affect the title as if it had merely been mentioned in the supplemental instrument.

Conditions and certain covenants not implied.

59.—(1) An exchange or other conveyance of land made by deed after the first day of October, eighteen hundred and forty-five, does not imply any condition in law.

(2) The word "give" or "grant" does not, in a deed made after the date last aforesaid, imply any covenant in law, save where otherwise provided by statute.

Abolition of technicalities in regard to conveyances and deeds.

60.—(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) In a voluntary conveyance a resulting trust for the grantor shall not be implied merely by reason that the property is not expressed to be conveyed for the use or benefit of the grantee.

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

Provided that in a deed executed after the thirty-first day of December, eighteen hundred and eighty-one, it is sufficient—

(*a*) In the limitation of an estate in fee simple, to use the words " in fee simple," without the word " heirs ";

(*b*) In the limitation of an estate tail, to use the words " in tail " without the words " heirs of the body "; and

(*c*) In the limitation of an estate in tail male or in tail female, to use the words " in tail male " or " in tail female," as the case requires, without the words " heirs male of the body," or " heirs female of the body."

Construction of expressions used in deeds and other instruments.

61. In all deeds, contracts, wills, orders and other instruments executed, made or coming into operation after the commencement of this Act, unless the context otherwise requires—

(*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.

General words implied in conveyances.

62.—(1) A conveyance of land shall be deemed to include and shall by virtue of this Act operate to convey, with the land, all buildings, erections, fixtures, commons, hedges, ditches, fences, ways, waters, watercourses, liberties, privileges, easements, rights, and advantages whatsoever, appertaining or reputed to appertain

to the land, or any part thereof, or, at the time of conveyance, demised, occupied, or enjoyed with, or reputed or known as part or parcel of or appurtenant to the land or any part thereof.

(2) A conveyance of land, having houses or other buildings thereon, shall be deemed to include and shall by virtue of this Act operate to convey, with the land, houses, or other buildings, all outhouses, erections, fixtures, cellars, areas, courts, courtyards, cisterns, sewers, gutters, drains, ways, passages, lights, watercourses, liberties, privileges, easements, rights, and advantages whatsoever, appertaining or reputed to appertain to the land, houses, or other buildings conveyed, or any of them, or any part thereof, or, at the time of conveyance, demised, occupied, or enjoyed with, or reputed or known as part or parcel of or appurtenant to, the land, houses, or other buildings conveyed, or any of them, or any part thereof.

(3) A conveyance of a manor shall be deemed to include and shall by virtue of this Act operate to convey, with the manor, all pastures, feedings, wastes, warrens, commons, mines, minerals, quarries, furzes, trees, woods, underwoods, coppices, and the ground and soil thereof, fishings, fisheries, fowlings, courts leet, courts baron, and other courts, view of frankpledge and all that to view of frankpledge doth belong, mills, mulctures, customs, tolls, duties, reliefs, heriots, fines, sums of money, amerciaments, waifs, estrays, chief-rents, quitrents, rentscharge, rents seck, rents of assize, fee farm rents, services, royalties jurisdictions, franchises, liberties, privileges, easements, profits, advantages, rights, emoluments, and hereditaments whatsoever, to the manor appertaining or reputed to appertain, or, at the time of conveyance, demised, occupied, or enjoyed with the same, or reputed or known as part, parcel, or member thereof.

For the purposes of this subsection the right to compensation for manorial incidents on the extinguishment thereof shall be deemed to be a right appertaining to the manor.

(4) This section applies only if and as far as a contrary intention is not expressed in the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.

(5) This section shall not be construed as giving to any person a better title to any property, right, or thing in this section mentioned than the title which the conveyance gives to him to the land or manor expressed to be conveyed, or as conveying to him any property, right, or thing in this section mentioned, further or otherwise than as the same could have been conveyed to him by the conveying parties.

(6) This section applies to conveyances made after the thirty-first day of December, eighteen hundred and eighty-one.

All estate clause implied.

63.—(1) Every conveyance is effectual to pass all the estate, right, title, interest, claim, and demand which the conveying parties respectively have, in, to, or on the property conveyed, or expressed or intended so to be, or which they respectively have power to convey in, to, or on the same.

(2) This section applies only if and as far as a contrary intention is not expressed in the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.

(3) This section applies to conveyances made after the thirty-first day of December, eighteen hundred and eighty-one.

Production and safe custody of documents.

64.—(1) Where a person retains possession of documents, and gives to another an acknowledgment in writing of the right of that other to production of those documents, and to delivery of copies thereof (in this section called an acknowledgment), that acknowledgment shall have effect as in this section provided.

(2) An acknowledgment shall bind the documents to which it relates in the possession or under the control of the person who retains them, and in the possession or under the control of every other person having possession or control thereof from time to time, but shall bind each individual possessor or person as long only as he has possession or control thereof; and every person so having possession or control from time to time shall be bound specifically to perform the obligations imposed under this section by an acknowledgment, unless prevented from so doing by fire or other inevitable accident.

(3) The obligations imposed under this section by an acknowledgment are to be performed from time to time at the request in writing of the person to whom an acknowledgment is given, or of any person, not being a lessee at a rent, having or claiming any estate, interest, or right through or under that person, or otherwise becoming through or under that person interested in or affected by the terms of any document to which the acknowledgment relates.

(4) The obligations imposed under this section by an acknowledgment are—

(i) An obligation to produce the documents or any of them at all reasonable times for the purpose of inspection, and of comparison with abstracts or copies thereof, by the person entitled to request production or by any person by him authorised in writing; and

(ii) An obligation to produce the documents or any of them at any trial, hearing, or examination in any court, or in the execution of any commission, or elsewhere in the United Kingdom, on any occasion on which production may properly be required, for proving or supporting the title or claim of the person entitled to request production, or for any other purpose relative to that title or claim; and

(iii) An obligation to deliver to the person entitled to request the same true copies or extracts, attested or unattested, of or from the documents or any of them.

(5) All costs and expenses of or incidental to the specific performance of any obligation imposed under this section by an acknowledgment shall be paid by the person requesting performance.

(6) An acknowledgment shall not confer any right to damages for loss or destruction of, or injury to, the documents to which it relates, from whatever cause arising.

(7) Any person claiming to be entitled to the benefit of an acknowledgment may apply to the court for an

order directing the production of the documents to which it relates, or any of them, or the delivery of copies of or extracts from those documents or any of them to him, or some person on his behalf; and the court may, if it thinks fit, order production, or production and delivery, accordingly, and may give directions respecting the time, place, terms, and mode of production or delivery, and may make such order as it thinks fit respecting the costs of the application, or any other matter connected with the application.

(8) An acknowledgment shall by virtue of this Act satisfy any liability to give a covenant for production and delivery of copies of or extracts from documents.

(9) Where a person retains possession of documents and gives to another an undertaking in writing for safe custody thereof, that undertaking shall impose on the person giving it, and on every person having possession or control of the documents from time to time, but on each individual possessor or person as long only as he has possession or control thereof, an obligation to keep the documents safe, whole, uncancelled, and undefaced, unless prevented from so doing by fire or other inevitable accident.

(10) Any person claiming to be entitled to the benefit of such an undertaking may apply to the court to assess damages for any loss or destruction of, or injury to, the documents or any of them, and the court may, if it thinks fit, direct an inquiry respecting the amount of damages, and order payment thereof by the person liable, and may make such order as it thinks fit respecting the costs of the application, or any other matter connected with the application.

(11) An undertaking for safe custody of documents shall by virtue of this Act satisfy any liability to give a covenant for safe custody of documents.

(12) The rights conferred by an acknowledgment or an undertaking under this section shall be in addition to all such other rights relative to the production, or inspection, or the obtaining of copies of documents, as are not, by virtue of this Act, satisfied by the giving of the acknowledgment or undertaking, and shall have effect subject

to the terms of the acknowledgment or undertaking, and to any provisions therein contained.

(13) This section applies only if and as far as a contrary intention is not expressed in the acknowledgment or undertaking.

(14) This section applies to an acknowledgment or undertaking given, or a liability respecting documents incurred, after the thirty-first day of December, eighteen hundred and eighty-one.

Reservation of legal estates.

65.—(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, 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.

(2) A conveyance of a legal estate expressed to be made subject to another legal estate not in existence immediately before the date of the conveyance, shall operate as a reservation, unless a contrary intention appears.

(3) This section applies only to reservations made after the commencement of this Act.

Confirmation of past transactions.

66.—(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) The powers conferred by this section may be exercised by a tenant for life or statutory owner, trustee for sale or a personal representative (being in each case

an estate owner) as well as by an absolute owner, but if exercised by any person, other than an absolute owner, only with the leave of the court.

(3) This section applies only to deeds containing such a declaration as aforesaid if executed after the commencement of this Act.

Receipt in deed sufficient.

67.—(1) A receipt for consideration money or securities in the body of a deed shall be a sufficient discharge for the same to the person paying or delivering the same, without any further receipt for the same being indorsed on the deed.

(2) This section applies to deeds executed after the thirty-first day of December, eighteen hundred and eighty-one.

Receipt in deed or indorsed evidence.

68.—(1) A receipt for consideration money or other consideration in the body of a deed or indorsed thereon shall, in favour of a subsequent purchaser, not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given, wholly or in part, be sufficient evidence of the payment or giving of the whole amount thereof.

(2) This section applies to deeds executed after the thirty-first day of December, eighteen hundred and eighty-one.

Receipt in deed or indorsed authority for payment to solicitor.

69.—(1) Where a solicitor produces a deed, having in the body thereof or indorsed thereon a receipt for consideration money or other consideration, the deed being executed, or the indorsed receipt being signed, by the person entitled to give a receipt for that consideration, the deed shall be a sufficient authority to the person liable to pay or give the same for his paying or giving the same to the solicitor, without the solicitor producing any separate or other direction or authority in that behalf from the person who executed or signed the deed or receipt.

(2) This section applies whether the consideration was paid or given before or after the commencement of this Act.

Partial release of security from rentcharge.

70.—(1) A release from a rentcharge of part of the land charged therewith does not extinguish the whole rentcharge, but operates only to bar the right to recover any part of the rentcharge out of the land released, without prejudice to the rights of any persons interested in the land remaining unreleased, and not concurring in or confirming the release.

(2) This section applies to releases made after the twelfth day of August, eighteen hundred and fifty-nine.

Release of part of land affected from a judgment.

71.—(1) A release from a judgment (including any writ or order imposing a charge) of part of any land charged therewith does not affect the validity of the judgment as respects any land not specifically released.

(2) This section operates without prejudice to the rights of any persons interested in the property remaining unreleased and not concurring in or confirming the release.

(3) This section applies to releases made after the twelfth day of August, eighteen hundred and fifty-nine.

Conveyances by a person to himself, &c.

72.—(1) In conveyances made after the twelfth day of August, eighteen hundred and fifty-nine, personal property, including chattels real, may be conveyed by a person to himself jointly with another person by the like means by which it might be conveyed by him to another person.

(2) In conveyances made after the thirty-first day of December, eighteen hundred and eighty-one, freehold land, or a thing in action, may be conveyed by a person to himself jointly with another person, by the like means by which it might be conveyed by him to another person; and may, in like manner, be conveyed by a husband to his wife, and by a wife to her husband, alone or jointly with another person.

(3) After the commencement of this Act a person may convey land to or vest land in himself.

(4) 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, the conveyance shall be liable to be set aside.

Execution of deeds by an individual.

73.—(1) Where an individual executes a deed, he shall either sign or place his mark upon the same and sealing alone shall not be deemed sufficient.

(2) This section applies only to deeds executed after the commencement of this Act.

Execution of instruments by or on behalf of corporations.

74.—(1) In favour of a purchaser a deed shall be deemed to have been duly executed by a corporation aggregate if its seal be affixed thereto in the presence of and attested by its 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 a seal purporting to be the seal of a corporation has been affixed to a deed, attested by persons purporting to be persons holding such offices as aforesaid, the deed shall be deemed to have been executed in accordance with the requirements of this section, 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 execute the conveyance by signing the name of the corporation in the presence of at least one witness, and in the case of a deed by affixing his own seal, and such execution shall take effect and be valid in like manner as if the corporation had executed the conveyance.

(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 other person (including another corporation), 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 other person; and where an instrument appears to be executed by an officer so appointed, then in favour of a purchaser the instrument shall be deemed to have been executed by an officer duly authorised.

(5) The foregoing provisions of this section apply to transactions wherever effected, but only to deeds and instruments executed after the commencement of this Act, except that, in the case of powers or appointments of an agent or officer, they apply whether the power was conferred or the appointment was made 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.

Rights of purchaser as to execution.

75.—(1) On a sale, the purchaser shall not be entitled to require that the conveyance to him be executed in his presence, or in that of his solicitor, as such; but shall be entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor.

(2) This section applies to sales made after the thirty-first day of December, eighteen hundred and eighty-one.

Covenants.

Covenants for title.

76.—(1) In a conveyance there shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases, by virtue of this Act, be implied, a covenant to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share of subject-matter expressed to be conveyed by him, with the person,

if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is (when the law permits) made as tenants in common, that is to say:

(A) In a conveyance for valuable consideration, other than a mortgage, a covenant by a person who conveys and is expressed to convey as beneficial owner in the terms set out in Part I. of the Second Schedule to this Act;

(B) In a conveyance of leasehold property for valuable consideration, other than a mortgage, a further covenant by a person who conveys and is expressed to convey as beneficial owner in the terms set out in Part II. of the Second Schedule to this Act;

(C) In a conveyance by way of mortgage (including a charge) a covenant by a person who conveys or charges and is expressed to convey or charge as beneficial owner in the terms set out in Part III. of the Second Schedule to this Act;

(D) In a conveyance by way of mortgage (including a charge) of freehold property subject to a rent or of leasehold property, a further covenant by a person who conveys or charges and is expressed to convey or charge as beneficial owner in the terms set out in Part IV. of the Second Schedule to this Act;

(E) In a conveyance by way of settlement, a covenant by a person who conveys and is expressed to convey as settlor in the terms set out in Part V. of the Second Schedule to this Act;

(F) In any conveyance, a covenant by every person who conveys and is expressed to convey as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a lunatic or as receiver of a defective, or under an order of the court, in the terms set out in Part VI. of the Second Schedule to this Act, which covenant shall be deemed to extend to every such person's own acts only, and may be implied in an assent by a personal representative in like manner as in a conveyance by deed.

(2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, then, for the purposes of this section, the person giving the direction, whether he conveys and is expressed to convey as beneficial owner or not, shall be deemed to convey and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction; and a covenant on his part shall be implied accordingly.

(3) Where a wife conveys and is expressed to convey as beneficial owner, and the husband also conveys and is expressed to convey as beneficial owner, then, for the purposes of this section, the wife shall be deemed to convey and to be expressed to convey by direction of the husband, as beneficial owner; and, in addition to the covenant implied on the part of the wife, there shall also be implied, first, a covenant on the part of the husband as the person giving that direction, and secondly, a covenant on the part of the husband in the same terms as the covenant implied on the part of the wife.

(4) Where in a conveyance a person conveying is not expressed to convey as beneficial owner, or as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or as committee of a lunatic or as receiver of a defective, or under an order of the court, or by direction of a person as beneficial owner, no covenant on the part of the person conveying shall be, by virtue of this section, implied in the conveyance.

(5) In this section a conveyance does not include a demise by way of lease at a rent, but does include a charge and "convey" has a corresponding meaning.

(6) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof, from time to time vested.

(7) A covenant implied as aforesaid may be varied or extended by a deed or an assent, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects, and

consequences, as if such variations or extensions were directed in this section to be implied.

(8) This section applies to conveyances made after the thirty-first day of December, eighteen hundred and eighty-one, but only to assents by a personal representative made after the commencement of this Act.

Implied covenants in conveyances subject to rents.

77.—(1) In addition to the covenants implied under the last preceding section, there shall in the several cases in this section mentioned, be deemed to be included and implied, a covenant to the effect in this section stated, by and with such persons as are hereinafter mentioned, that is to say:—

(A) In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land affected by a rentcharge, a covenant by the grantee or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in Part VII. of the Second Schedule to this Act. Where a rentcharge has been apportioned in respect of any land, with the consent of the owner of the rentcharge, the covenants in this paragraph shall be implied in the conveyance of that land in like manner as if the apportioned rentcharge were the rentcharge referred to, and the document creating the rentcharge related solely to that land:

(B) In a conveyance for valuable consideration, other than a mortgage, of part of land affected by a rentcharge, subject to a part of that rentcharge which has been or is by that conveyance apportioned (but in either case without the consent of the owner of the rentcharge) in respect of the land conveyed:—

(i) A covenant by the grantee of the land or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than

one, in the terms set out in paragraph (i) of Part VIII. of the Second Schedule to this Act;

(ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land affected by such rentcharge is retained, with the grantees of the land and with each of them (if more than one) in the terms set out in paragraph (ii) of Part VIII. of the Second Schedule to this Act:

(C) In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land comprised in a lease, for the residue of the term or interest created by the lease, a covenant by the assignee or joint and several covenants by the assignees (if more than one) with the conveying parties and with each of them (if more than one) in the terms set out in Part IX. of the Second Schedule to this Act. Where a rent has been apportioned in respect of any land, with the consent of the lessor, the covenants in this paragraph shall be implied in the conveyance of that land in like manner as if the apportioned rent were the original rent reserved, and the lease related solely to that land:

(D) In a conveyance for valuable consideration, other than a mortgage, of part of the land comprised in a lease, for the residue of the term or interest created by the lease, subject to a part of the rent which has been or is by the conveyance apportioned (but in either case without the consent of the lessor) in respect of the land conveyed :—

(i) A covenant by the assignee of the land, or joint and several covenants by the assignees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in para-

graph (i) of Part X. of the Second Schedule to this Act;

(ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land comprised in the lease is retained, with the assignees of the land and with each of them (if more than one) in the terms set out in paragraph (ii) of Part X. of the Second Schedule to this Act.

(2) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge, or part of land comprised in a lease is, without the consent of the owner of the rentcharge or of the lessor, as the case may be, expressed to be conveyed—

(i) subject to or charged with the entire rent—

then paragraph (B) (i) or (D) (i) of the last subsection, as the case may require, shall have effect as if the entire rent were the apportioned rent; or

(ii) discharged or exonerated from the entire rent—

then paragraph (B) (ii) or (D) (ii) of the last subsection, as the case may require, shall have effect as if the entire rent were the balance of the rent, and the words "other than the covenant to pay the entire rent" had been omitted.

(3) In this section "conveyance" does not include a demise by way of lease at a rent.

(4) Any covenant which would be implied under this section by reason of a person conveying or being expressed to convey as beneficial owner may, by express reference to this section, be implied, with or without variation, in a conveyance, whether or not for valuable consideration, by a person who conveys or is expressed to convey as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or as committee of a lunatic, or as receiver of a defective, or under an order of the court.

(5) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the

estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof, from time to time vested.

(6) A covenant implied as aforesaid may be varied or extended by deed, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied.

(7) In particular any covenant implied under this section may be extended by providing that—

(*a*) the land conveyed; or

(*b*) the part of the land affected by the rentcharge which remains vested in the covenantor; or

(*c*) the part of the land demised which remains vested in the covenantor;

shall, as the case may require, stand charged with the payment of all money which may become payable under the implied covenant.

(8) This section applies only to conveyances made after the commencement of this Act.

Benefit of covenants relating to land.

78.—(1) A covenant relating to any land of the covenantee shall be deemed to be made with the covenantee and his successors in title and the persons deriving title under him or them, and shall have effect as if such successors and other persons were expressed.

For the purposes of this subsection in connexion with covenants restrictive of the user of land "successors in title" shall be deemed to include the owners and occupiers for the time being of the land of the covenantee intended to be benefited.

(2) This section applies to covenants made after the commencement of this Act, but the repeal of section fifty-eight of the Conveyancing Act, 1881, does not affect the operation of covenants to which that section applied.

44 & 45 Vict. c. 41.

Burden of covenants

79.—(1) A covenant relating to any land of a covenantor or capable of being bound by him, shall,

unless a contrary intention is expressed, be deemed to be made by the covenantor on behalf of himself his successors in title and the persons deriving title under him or them, and, subject as aforesaid, shall have effect as if such successors and other persons were expressed. relating to land.

This subsection extends to a covenant to do some act relating to the land, notwithstanding that the subject-matter may not be in existence when the covenant is made.

(2) For the purposes of this section in connexion with covenants restrictive of the user of land "successors in title" shall be deemed to include the owners and occupiers for the time being of such land.

(3) This section applies only to covenants made after the commencement of this Act.

80.—(1) A covenant and a bond and an obligation or contract under seal made after the thirty-first day of December, eighteen hundred and eighty-one, binds 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. Covenants binding land.

This subsection extends to a covenant implied by virtue of this Act.

(2) Every covenant running with the land, whether entered into before or after the commencement of this Act, shall take effect in accordance with any statutory enactment affecting the devolution of the land, and accordingly the benefit or burden of every such covenant shall vest in or bind the persons who by virtue of any such enactment or otherwise 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 any technical expression 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.

(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.

Effect of covenant with two or more jointly.

81.—(1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly, to pay money or to make a conveyance, or to do any other act, to them or for their benefit, shall be deemed to include, and shall, by virtue of this Act, imply, an obligation to do the act to, or for the benefit of, the survivor or survivors of them, and to, or for the benefit of, any other person to whom the right to sue on the covenant, contract, bond, or obligation devolves, and where made after the commencement of this Act shall be construed as being also made with each of them.

(2) This section extends to a covenant implied by virtue of this Act.

(3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond, or obligation, and has effect subject to the covenant, contract, bond, or obligation, and to the provisions therein contained.

(4) Except as otherwise expressly provided, this section applies to a covenant, contract, bond, or obligation made or implied after the thirty-first day of December, eighteen hundred and eighty-one.

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

82.—(1) Any covenant, whether express or implied, or agreement entered into by a person with himself and one or more other persons 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 person or persons alone.

(2) This section applies to covenants or agreements entered into before or after the commencement of this Act, and to covenants implied by statute in the case of a person who conveys or is expressed to convey to himself and one or more other persons, but without prejudice to any order of the court made before such commencement.

Construction of implied covenants.

83. In the construction of a covenant or proviso, or other provision, implied in a deed or assent by virtue of this Act, words importing the singular or plural number, or the masculine gender, shall be read as also importing the plural or singular number, or as extending to females, as the case may require.

Power to discharge or modify restrictive covenants affecting land.

84.—(1) The Authority hereinafter defined shall (without prejudice to any concurrent 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) on 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

(*c*) 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 shall any compensation be payable in excess of such loss; but this provision shall not affect any right to compensation where the person claiming the compensation proves that 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 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, and 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 Reference Committee mentioned in this section may make rules in relation to any applications to be made to the Authority under this section, 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 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, 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) This section applies whether the land affected by the restrictions is registered or not, but, in the case of registered land, the Land Registrar shall give effect on the register to any order under this section when made.

(9) 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 giving leave to apply to the Authority under this section, and staying the proceedings in the meantime.

(10) 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.

(11) This section does not apply to restrictions imposed by the Commissioners of Works under any statutory power 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, nor to restrictions created or imposed—

(*a*) for Naval, Military or Air Force purposes,

(*b*) for civil aviation purposes under the powers of the Air Navigation Act, 1920. 10 & 11 Geo. 5. c. 80.

(12) 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.

PART III.

MORTGAGES, RENTCHARGES, AND POWERS OF ATTORNEY.

Mortgages.

85.—(1) A mortgage of an estate in fee simple shall only be capable of being effected at law either by a demise Mode of mortgaging freeholds.

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:

Provided that a first mortgagee shall have the same right to the possession of documents as if his security included the fee simple.

(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) This section applies whether or not the land is registered under the Land Registration Act, 1925, or the mortgage is expressed to be made by way of trust for sale or otherwise.

15 Geo. 5. c. 21.

(4) 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 estate 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.

Mode of mortgaging leaseholds.

86.—(1) A mortgage of a term of years absolute shall only be capable of being effected at law 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;

and where a licence to subdemise by way of mortgage is required, such licence shall not be unreasonably refused:

Provided that a first mortgagee shall have the same right to the possession of documents as if his security had been effected by assignment.

(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) This section applies whether or not the land is registered under the Land Registration Act, 1925, 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.

(4) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage for 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 term by subdemise for a term of years absolute or by a charge by way of legal mortgage, or to lend on such security.

Charges by way of legal mortgage.

87.—(1) Where a legal mortgage of land is created by a charge by deed expressed to be by way of legal mortgage, 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*) where the mortgage is a mortgage of an estate in fee simple, a mortgage term for three thousand years without impeachment of waste had been thereby created in favour of the mortgagee; and

(*b*) where the mortgage is a mortgage of a term of years absolute, a sub-term less by one day than the term vested in the mortgagor had been thereby created in favour of the mortgagee.

(2) Where an estate vested in a mortgagee immediately before the commencement of this Act has by virtue of this Act been converted into a term of years absolute or sub-term, the mortgagee may, by a declaration in writing to that effect signed by him, convert the mortgage into a charge by way of legal mortgage, and in that case the mortgage term shall be extinguished in the inheritance or in the head term as the case may be, 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 or sub-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.

(3) Such declaration shall not affect the priority of the mortgagee or his right to retain possession of documents, nor affect his title to or right over any fixtures or chattels personal comprised in the mortgage.

Realisation of freehold mortgages.

88.—(1) Where an estate in fee simple has been mortgaged by the creation of a term of years absolute limited thereout or by a charge by way of legal mortgage and the mortgagee sells under his statutory or express power of sale—

(*a*) the conveyance by him shall operate to vest in the purchaser the fee simple in the land conveyed subject to any legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured, and thereupon;

(*b*) the mortgage term or the charge by way of legal mortgage and any subsequent mortgage term or charges 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 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 merged in 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 statutory power for that purpose discharged from any 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) Where the mortgage includes fixtures or chattels personal any statutory power of sale and any right to foreclose or take possession shall extend to the absolute or other interest therein affected by the charge.

(5) 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, and to enable the sub-mortgagee to convey the fee simple or acquire it by foreclosure, enlargement, or otherwise as aforesaid.

(6) This section applies to a mortgage whether created before or after the commencement of this Act, and to a mortgage term created by this Act, but does 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) not being merely equitable charges had been created by demise or by charge by way of legal mortgage.

Realisation of leasehold mortgages.

89.—(1) Where a term of years absolute has been mortgaged by the creation of another term of years absolute limited thereout or by a charge by way of legal mortgage and the mortgagee sells under his statutory or express power of sale,—

(*a*) the conveyance by him shall operate to convey to the purchaser not only the mortgage term, if any, but also (unless expressly excepted with the leave of the court) the leasehold reversion affected by the mortgage, subject to any legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured, and thereupon

(*b*) the mortgage term, or the charge by way of legal mortgage and any subsequent mortgage term or charge, shall merge in such leasehold reversion or be extinguished unless excepted as aforesaid;

and such conveyance may, as respects the leasehold reversion, be made in the name of the estate owner in whom it is vested.

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 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, subject to any 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 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.

(3) Where any such mortgagee 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 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.

(4) Where the mortgage includes fixtures or chattels personal, any statutory power of sale and any right to foreclose or take possession shall extend to the absolute or other interest therein affected by the charge.

(5) 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 and to enable the sub-mortgagee to convey the leasehold reversion or acquire it by foreclosure, vesting, or otherwise as aforesaid.

(6) This section takes 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 applies to a mortgage whether executed before or after the commencement of this Act, and to a mortgage term created by this Act, but does 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 lessee's 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.

90.—(1) Where an order for sale is made by the court in reference to an equitable mortgage 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 may appoint a person to convey the land or create and vest in the mortgagee a legal term of years absolute to enable him to carry out the sale, as the case may require, in like manner as if the mortgage had been created by deed by way of legal mortgage pursuant to this Act, but without prejudice to any incumbrance having priority to the equitable mortgage unless the incumbrancer consents to the sale.

(2) This section applies to equitable mortgages made or arising before or after the commencement of this Act, but not to a mortgage which has been over-reached under the powers conferred by this Act or otherwise.

Sale of mortgaged property in action for redemption or foreclosure.

91.—(1) Any person entitled to redeem mortgaged property may have a judgment or order for sale instead of for redemption in an action brought by him either for redemption alone, or for sale alone, or for sale or redemption in the alternative.

(2) In any action, whether for foreclosure, or for redemption, or for sale, or for the raising and payment in any manner of mortgage money, the court, on the request of the mortgagee, or of any person interested either in the mortgage money or in the right of redemption, and, notwithstanding that—

(*a*) any other person dissents; or

(*b*) the mortgagee or any person so interested does not appear in the action;

and without allowing any time for redemption or for payment of any mortgage money, may direct a sale of the mortgaged property, on such terms as it thinks fit, including the deposit in court of a reasonable sum fixed by the court to meet the expenses of sale and to secure performance of the terms.

(3) But, in an action brought by a person interested in the right of redemption and seeking a sale, the court may, on the application of any defendant, direct the plaintiff to give such security for costs as the court thinks fit, and may give the conduct of the sale to any defendant, and may give such directions as it thinks fit respecting the costs of the defendants or any of them.

(4) In any case within this section the court may, if it thinks fit, direct a sale without previously determining the priorities of incumbrancers.

(5) This section applies to actions brought either before or after the commencement of this Act.

(6) In this section "mortgaged property" includes the estate or interest which a mortgagee would have had power to convey if the statutory power of sale were applicable.

(7) For the purposes of this section the court may, in favour of a purchaser, make a vesting order conveying the mortgaged property, or appoint a person to do so, subject or not to any incumbrance, as the court may think fit; or, in the case of an equitable mortgage, may create and vest a mortgage term in the mortgagee to enable him to carry out the sale as if the mortgage had been made by deed by way of legal mortgage.

Power to authorise land and minerals to be dealt with separately.

92. Where a mortgagee's power of sale in regard to land has become exercisable but does not extend to the purposes mentioned in this section, the court may, on his application, authorise him and the persons deriving title under him to dispose—

(*a*) of the land, with an exception or reservation of all or any mines and minerals, and with or without rights and powers of or incidental to the working, getting or carrying away of minerals; or

(*b*) of all or any mines and minerals, with or without the said rights or powers separately from the land;

and thenceforth the powers so conferred shall have effect as if the same were contained in the mortgage.

Restriction on consolidation of mortgages.

93.—(1) A mortgagor seeking to redeem any one mortgage is entitled to do so without paying any money due under any separate mortgage made by him, or by any person through whom he claims, solely on property other than that comprised in the mortgage which he seeks to redeem.

This subsection applies only if and as far as a contrary intention is not expressed in the mortgage deeds or one of them.

(2) This section does not apply where all the mortgages were made before the first day of January, eighteen hundred and eighty-two.

(3) Save as aforesaid, nothing in this Act, in reference to mortgages, affects any right of consolidation or renders inoperative a stipulation in relation to any mortgage made before or after the commencement of this Act reserving a right to consolidate.

Tacking and further advances.

94.—(1) After the commencement of this Act, a prior mortgagee shall have a right to make further advances to rank in priority to subsequent mortgages (whether legal or equitable)—

(*a*) if an arrangement has been made to that effect with the subsequent mortgagees; or

(*b*) if he had no notice of such subsequent mortgages at the time when the further advance was made by him; or

(*c*) whether or not he had such notice as aforesaid, where the mortgage imposes an obligation on him to make such further advances.

This subsection applies whether or not the prior mortgage was made expressly for securing further advances.

(2) In relation to the making of further advances after the commencement of this Act a mortgagee shall not be deemed to have notice of a mortgage 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) by or on behalf of the mortgagee was made, whichever last happened.

This subsection only applies where the prior mortgage was made expressly for securing a current account or other further advances.

(3) Save in regard to the making of further advances as aforesaid, the right to tack is hereby abolished:

Provided that nothing in 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.

(4) This section applies to mortgages of land made before or after the commencement of this Act, but not to charges registered under the Land Registration Act, 1925, or any enactment replaced by that Act.

Obligation to transfer instead of reconveying, and as to right to take possession.

95.—(1) Where a mortgagor is entitled to redeem, then subject to compliance with the terms on compliance with which he would be entitled to require a reconveyance or surrender, he shall be entitled to require the mortgagee, instead of re-conveying or surrendering, to assign the mortgage debt and convey the mortgaged property to any third person, as the mortgagor directs; and the mortgagee shall be bound to assign and convey accordingly.

(2) The rights conferred by this section belong to and are capable of being enforced by each incumbrancer, or by the mortgagor, notwithstanding any intermediate incumbrance; but a requisition of an incumbrancer prevails over a requisition of the mortgagor, and, as between incumbrancers, a requisition of a prior incumbrancer prevails over a requisition of a subsequent incumbrancer.

(3) The foregoing provisions of this section do not apply in the case of a mortgagee being or having been in possession.

(4) Nothing in this Act affects 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, but the taking of possession by the mortgagee does not convert any legal estate of the mortgagor into an equitable interest.

(5) This section applies to mortgages made either before or after the commencement of this Act, and takes effect notwithstanding any stipulation to the contrary.

Regulations respecting inspection, production and delivery of documents, and priorities.

96.—(1) A mortgagor, as long as his right to redeem subsists, shall be entitled from time to time, at reasonable times, on his request, and at his own cost, and on payment of the mortgagee's costs and expenses in this behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee.

This section applies to mortgages made after the thirty-first day of December, eighteen hundred and eighty-one, and takes effect notwithstanding any stipulation to the contrary.

(2) A mortgagee, whose mortgage is surrendered or otherwise extinguished, shall not be liable on account of delivering documents of title in his possession to the person not having the best right thereto, unless he has notice of the right or claim of a person having a better right, whether by virtue of a right to require a surrender or re-conveyance or otherwise.

Priorities as between puisne mortgages.

97. Every mortgage affecting a legal estate in land made after the commencement of this Act, whether legal or equitable (not being a mortgage protected by the deposit of documents relating to the legal estate affected) shall rank according to its date of registration as a land charge pursuant to the Land Charges Act, 1925.

This subsection does not apply to mortgages or charges of registered land or of land within the jurisdiction of a local deeds registry.

Actions for possession by mortgagors.

98.—(1) A mortgagor for the time being entitled to the possession or receipt of the rents and profits of any land, as to which the mortgagee has not given notice of his intention to take possession or to enter into the receipt of the rents and profits thereof, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.

(2) This section does not prejudice the power of a mortgagor independently of this section to take proceedings in his own name only, either in right of any legal estate vested in him or otherwise.

(3) This section applies whether the mortgage was made before or after the commencement of this Act.

Leasing powers of mortgagor and mortgagee in possession.

99.—(1) A mortgagor of land while in possession shall, as against every incumbrancer, have power to make from time to time any such lease of the mortgaged land, or any part thereof, as is by this section authorised.

(2) A mortgagee of land while in possession shall, as against all prior incumbrancers, if any, and as against the mortgagor, have power to make from time to time any such lease as aforesaid.

(3) The leases which this section authorises are—

(i) agricultural or occupation leases for any term not exceeding twenty-one years, or, in the case of a mortgage made after the commencement of this Act, fifty years; and

(ii) building leases for any term not exceeding ninety-nine years, or, in the case of a mortgage made after the commencement of this Act, nine hundred and ninety-nine years.

(4) Every person making a lease under this section may execute and do all assurances and things necessary or proper in that behalf.

(5) Every such lease shall be made to take effect in possession not later than twelve months after its date.

(6) Every such lease shall reserve the best rent that can reasonably be obtained, regard being had to the circumstances of the case, but without any fine being taken.

(7) Every such lease shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.

(8) A counterpart of every such lease shall be executed by the lessee and delivered to the lessor, of which execution and delivery the execution of the lease by the lessor shall, in favour of the lessee and all persons deriving title under him, be sufficient evidence.

(9) Every such building lease shall be made in consideration of the lessee, or some person by whose direction the lease is granted, having erected, or agreeing to erect within not more than five years from the date of the lease, buildings, new or additional, or having improved or repaired buildings, or agreeing to improve or repair buildings within that time, or having executed, or agreeing to execute within that time, on the land leased, an improvement for or in connexion with building purposes.

(10) In any such building lease a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years, or any less part of the term.

(11) In case of a lease by the mortgagor, he shall, within one month after making the lease, deliver to the

mortgagee, or, where there are more than one, to the mortgagee first in priority, a counterpart of the lease duly executed by the lessee, but the lessee shall not be concerned to see that this provision is complied with.

(12) A contract to make or accept a lease under this section may be enforced by or against every person on whom the lease if granted would be binding.

(13) This section applies only if and as far as a contrary intention is not expressed by the mortgagor and mortgagee in the mortgage deed, or otherwise in writing, and has effect subject to the terms of the mortgage deed or of any such writing and to the provisions therein contained.

(14) The mortgagor and mortgagee may, by agreement in writing, whether or not contained in the mortgage deed, reserve to or confer on the mortgagor or the mortgagee, or both, any further or other powers of leasing or having reference to leasing; and any further or other powers so reserved or conferred shall be exercisable, as far as may be, as if they were conferred by this Act, and with all the like incidents, effects, and consequences:

Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgagee joins in or adopts the agreement.

(15) Nothing in this Act shall be construed to enable a mortgagor or mortgagee to make a lease for any longer term or on any other conditions than such as could have been granted or imposed by the mortgagor, with the concurrence of all the incumbrancers, if this Act and the enactments replaced by this section had not been passed:

Provided that, in the case of a mortgage of leasehold land, a lease granted under this section shall reserve a reversion of not less than one day.

(16) Subject as aforesaid, this section applies to any mortgage made after the thirty-first day of December, eighteen hundred and eighty-one, but the provisions thereof, or any of them, may, by agreement in writing made after that date between mortgagor and mortgagee, be applied to a mortgage made before that date, so nevertheless that any such agreement shall not prejudicially affect any right or interest of any mortgagee not joining in or adopting the agreement.

(17) The provisions of this section referring to a lease shall be construed to extend and apply, as far as circumstances admit, to any letting, and to an agreement, whether in writing or not, for leasing or letting.

(18) For the purposes of this section "mortgagor" does not include an incumbrancer deriving title under the original mortgagor.

(19) The powers of leasing conferred by this section shall, after a receiver of the income of the mortgaged property or any part thereof has been appointed by a mortgagee under his statutory power, and so long as the receiver acts, be exercisable by such mortgagee instead of by the mortgagor, as respects any land affected by the receivership, in like manner as if such mortgagee were in possession of the land, and the mortgagee may, by writing, delegate any of such powers to the receiver.

Powers of mortgagor and mortgagee in possession to accept surrenders of leases.

100.—(1) For the purpose only of enabling a lease authorised under the last preceding section, or under any agreement made pursuant to that section, or by the mortgage deed (in this section referred to as an authorised lease) to be granted, a mortgagor of land while in possession shall, as against every incumbrancer, have, by virtue of this Act, power to accept from time to time a surrender of any lease of the mortgaged land or any part thereof comprised in the lease, with or without an exception of or in respect of all or any of the mines and minerals therein, and, on a surrender of the lease so far as it comprises part only of the land or mines and minerals leased, the rent may be apportioned.

(2) For the same purpose, a mortgagee of land while in possession shall, as against all prior or other incumbrancers, if any, and as against the mortgagor, have, by virtue of this Act, power to accept from time to time any such surrender as aforesaid.

(3) On a surrender of part only of the land or mines and minerals leased, the original lease may be varied, provided that the lease when varied would have been valid as an authorised lease if granted by the person accepting the surrender; and, on a surrender and the making of a new or other lease, whether for the same or for any extended or other term, and whether subject or not to the same or to any other covenants, provisions,

or conditions, the value of the lessee's interest in the lease surrendered may, subject to the provisions of this section, be taken into account in the determination of the amount of the rent to be reserved, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease.

(4) Where any consideration for the surrender, other than an agreement to accept an authorised lease, is given by or on behalf of the lessee to or on behalf of the person accepting the surrender, nothing in this section authorises a surrender to a mortgagor without the consent of the incumbrancers, or authorises a surrender to a second or subsequent incumbrancer without the consent of every prior incumbrancer.

(5) No surrender shall, by virtue of this section, be rendered valid unless:—

(*a*) An authorised lease is granted of the whole of the land or mines and minerals comprised in the surrender to take effect in possession immediately or within one month after the date of the surrender; and

(*b*) The term certain or other interest granted by the new lease is not less in duration than the unexpired term or interest which would have been subsisting under the original lease if that lease had not been surrendered; and

(*c*) Where the whole of the land mines and minerals originally leased has been surrendered, the rent reserved by the new lease is not less than the rent which would have been payable under the original lease if it had not been surrendered; or where part only of the land or mines and minerals has been surrendered, the aggregate rents respectively remaining payable or reserved under the original lease and new lease are not less than the rent which would have been payable under the original lease if no partial surrender had been accepted.

(6) A contract to make or accept a surrender under this section may be enforced by or against every person on whom the surrender, if completed, would be binding.

(7) This section applies only if and as far as a contrary intention is not expressed by the mortgagor

and mortgagee in the mortgage deed, or otherwise in writing, and shall have effect subject to the terms of the mortgage deed or of any such writing and to the provisions therein contained.

(8) This section applies to a mortgage made after the thirty-first day of December, nineteen hundred and eleven, but the provisions of this section, or any of them, may, by agreement in writing made after that date, between mortgagor and mortgagee, be applied to a mortgage made before that date, so nevertheless that any such agreement shall not prejudicially affect any right or interest of any mortgagee not joining in or adopting the agreement.

(9) The provisions of this section referring to a lease shall be construed to extend and apply, as far as circumstances admit, to any letting, and to an agreement, whether in writing or not, for leasing or letting.

(10) The mortgagor and mortgagee may, by agreement in writing, whether or not contained in the mortgage deed, reserve or confer on the mortgagor or mortgagee, or both, any further or other powers relating to the surrender of leases; and any further or other powers so conferred or reserved shall be exercisable, as far as may be, as if they were conferred by this Act, and with all the like incidents, effects and consequences:

Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgagee joins in or adopts the agreement.

(11) Nothing in this section operates to enable a mortgagor or mortgagee to accept a surrender which could not have been accepted by the mortgagor with the concurrence of all the incumbrancers if this Act and the enactments replaced by this section had not been passed.

(12) For the purposes of this section "mortgagor" does not include an incumbrancer deriving title under the original mortgagor.

(13) The powers of accepting surrenders conferred by this section shall, after a receiver of the income of the mortgaged property or any part thereof has been appointed by the mortgagee, under the statutory power, and so long as the receiver acts, be exercisable

by such mortgagee instead of by the mortgagor, as respects any land affected by the receivership, in like manner as if such mortgagee were in possession of the land; and the mortgagee may, by writing, delegate any of such powers to the receiver.

Powers incident to estate or interest of mortgagee.

101.—(1) A mortgagee, where the mortgage is made by deed, shall, by virtue of this Act, have the following powers, to the like extent as if they had been in terms conferred by the mortgage deed, but not further (namely):

(i) A power, when the mortgage money has become due, to sell, or to concur with any other person in selling, the mortgaged property, or any part thereof, either subject to prior charges or not, and either together or in lots, by public auction or by private contract, subject to such conditions respecting title, or evidence of title, or other matter, as the mortgagee thinks fit, with power to vary any contract for sale, and to buy in at an auction, or to rescind any contract for sale, and to re-sell, without being answerable for any loss occasioned thereby; and

(ii) A power, at any time after the date of the mortgage deed, to insure and keep insured against loss or damage by fire any building, or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the property which or an estate or interest wherein is mortgaged, and the premiums paid for any such insurance shall be a charge on the mortgaged property or estate or interest, in addition to the mortgage money, and with the same priority, and with interest at the same rate, as the mortgage money; and

(iii) A power, when the mortgage money has become due, to appoint a receiver of the income of the mortgaged property, or any part thereof; or, if the mortgaged property consists of an interest in income, or of a rentcharge or an annual or other periodical sum, a receiver of that property or any part thereof; and

(iv) A power, while the mortgagee is in possession, to cut and sell timber and other trees ripe for cutting, and not planted or left standing for

shelter or ornament, or to contract for any such cutting and sale, to be completed within any time not exceeding twelve months from the making of the contract.

(2) Where the mortgage deed is executed after the thirty-first day of December, nineteen hundred and eleven, the power of sale aforesaid includes the following powers as incident thereto (namely):—

(i) A power to impose or reserve or make binding, as far as the law permits, by covenant, condition, or otherwise, on the unsold part of the mortgaged property or any part thereof, or on the purchaser and any property sold, any restriction or reservation with respect to building on or other user of land, or with respect to mines and minerals, or for the purpose of the more beneficial working thereof, or with respect to any other thing:

(ii) A power to sell the mortgaged property, or any part thereof, or all or any mines and minerals apart from the surface:—

(*a*) With or without a grant or reservation of rights of way, rights of water, easements, rights, and privileges for or connected with building or other purposes in relation to the property remaining in mortgage or any part thereof, or to any property sold: and

(*b*) With or without an exception or reservation of all or any of the mines and minerals in or under the mortgaged property, and with or without a grant or reservation of powers of working, wayleaves, or rights of way, rights of water and drainage and other powers, easements, rights, and privileges for or connected with mining purposes in relation to the property remaining unsold or any part thereof, or to any property sold: and

(*c*) With or without covenants by the purchaser to expend money on the land sold.

(3) The provisions of this Act relating to the foregoing powers, comprised either in this section, or in any other section regulating the exercise of those powers, may be varied or extended by the mortgage

deed, and, as so varied or extended, shall, as far as may be, operate in the like manner and with all the like incidents, effects, and consequences, as if such variations or extensions were contained in this Act.

(4) This section applies only if and as far as a contrary intention is not expressed in the mortgage deed, and has effect subject to the terms of the mortgage deed and to the provisions therein contained.

(5) Save as otherwise provided, this section applies where the mortgage deed is executed after the thirty-first day of December, eighteen hundred and eighty-one.

(6) The power of sale conferred by this section includes such power of selling the estate in fee simple or any leasehold reversion as is conferred by the provisions of this Act relating to the realisation of mortgages.

Provision as to mortgages of undivided shares in land.

102.—(1) A person who was before the commencement of this Act 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 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 this Act, he would have had to take possession or to appoint a receiver of the rents and profits attributable to the same share.

(2) The powers conferred by this section are exercisable by the persons deriving title under such mortgagee.

Regulation of exercise of power of sale.

103. A mortgagee shall not exercise the power of sale conferred by this Act unless and until—

(i) Notice requiring payment of the mortgage money has been served on the mortgagor or one of two or more mortgagors, and default has been made in payment of the mortgage money, or of part thereof, for three months after such service; or

(ii) Some interest under the mortgage is in arrear and unpaid for two months after becoming due; or

(iii) There has been a breach of some provision contained in the mortgage deed or in this Act, or in an enactment replaced by this Act, and on the part of the mortgagor, or of some person concurring in making the mortgage, to be observed or performed, other than and besides a covenant for payment of the mortgage money or interest thereon.

Conveyance on sale.

104.—(1) A mortgagee exercising the power of sale conferred by this Act shall have power, by deed, to convey the property sold, for such estate and interest therein as he is by this Act authorised to sell or convey or may be the subject of the mortgage, freed from all estates, interests, and rights to which the mortgage has priority, but subject to all estates, interests, and rights which have priority to the mortgage.

(2) Where a conveyance is made in exercise of the power of sale conferred by this Act, or any enactment replaced by this Act, the title of the purchaser shall not be impeachable on the ground—

(*a*) that no case had arisen to authorise the sale; or

(*b*) that due notice was not given; or

(*c*) where the mortgage is made after the commencement of this Act, that leave of the court, when so required, was not obtained; or

(*d*) whether the mortgage was made before or after such commencement, that the power was otherwise improperly or irregularly exercised;

and a purchaser is not, either before or on conveyance, concerned to see or inquire whether a case has arisen to authorise the sale, or due notice has been given, or the power is otherwise properly and regularly exercised; but any person damnified by an unauthorised, or improper, or irregular exercise of the power shall have his remedy in damages against the person exercising the power.

(3) A conveyance on sale by a mortgagee, made after the commencement of this Act, shall be deemed to have been made in exercise of the power of sale conferred by this Act unless a contrary intention appears.

Application of proceeds of sale.

105. The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances to which the sale is not made subject, if any, or after payment into court under this Act of a sum to meet any

prior incumbrance, shall be held by him in trust to be applied by him, first, in payment of all costs, charges, and expenses properly incurred by him as incident to the sale or any attempted sale, or otherwise; and secondly, in discharge of the mortgage money, interest, and costs, and other money, if any, due under the mortgage; and the residue of the money so received shall be paid to the person entitled to the mortgaged property, or authorised to give receipts for the proceeds of the sale thereof.

Provisions as to exercise of power of sale.

106.—(1) The power of sale conferred by this Act may be exercised by any person for the time being entitled to receive and give a discharge for the mortgage money.

(2) The power of sale conferred by this Act does not affect the right of foreclosure.

(3) The mortgagee shall not be answerable for any involuntary loss happening in or about the exercise or execution of the power of sale conferred by this Act, or of any trust connected therewith, or, where the mortgage is executed after the thirty-first day of December, nineteen hundred and eleven, of any power or provision contained in the mortgage deed.

(4) At any time after the power of sale conferred by this Act has become exercisable, the person entitled to exercise the power may demand and recover from any person, other than a person having in the mortgaged property an estate, interest, or right in priority to the mortgage, all the deeds and documents relating to the property, or to the title thereto, which a purchaser under the power of sale would be entitled to demand and recover from him.

Mortgagee's receipts, discharges, &c.

107.—(1) The receipt in writing of a mortgagee shall be a sufficient discharge for any money arising under the power of sale conferred by this Act, or for any money or securities comprised in his mortgage, or arising thereunder; and a person paying or transferring the same to the mortgagee shall not be concerned to inquire whether any money remains due under the mortgage.

(2) Money received by a mortgagee under his mortgage or from the proceeds of securities comprised in his mortgage shall be applied in like manner as in this Act directed respecting money received by him

arising from a sale under the power of sale conferred by this Act, but with this variation, that the costs, charges, and expenses payable shall include the costs, charges, and expenses properly incurred of recovering and receiving the money or securities, and of conversion of securities into money, instead of those incident to sale.

Amount and application of insurance money.

108.—(1) The amount of an insurance effected by a mortgagee against loss or damage by fire under the power in that behalf conferred by this Act shall not exceed the amount specified in the mortgage deed, or, if no amount is therein specified, two third parts of the amount that would be required, in case of total destruction, to restore the property insured.

(2) An insurance shall not, under the power conferred by this Act, be effected by a mortgagee in any of the following cases (namely):

(i) Where there is a declaration in the mortgage deed that no insurance is required:

(ii) Where an insurance is kept up by or on behalf of the mortgagor in accordance with the mortgage deed:

(iii) Where the mortgage deed contains no stipulation respecting insurance, and an insurance is kept up by or on behalf of the mortgagor with the consent of the mortgagee to the amount to which the mortgagee is by this Act authorised to insure.

(3) All money received on an insurance of mortgaged property against loss or damage by fire or otherwise effected under this Act, or any enactment replaced by this Act, or on an insurance for the maintenance of which the mortgagor is liable under the mortgage deed, shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.

(4) Without prejudice to any obligation to the contrary imposed by law, or by special contract, a mortgagee may require that all money received on an insurance of mortgaged property against loss or damage by fire or otherwise effected under this Act, or any enactment replaced by this Act, or on an insurance for the maintenance of which the mortgagor is liable under the

mortgage deed, be applied in or towards the discharge of the mortgage money.

Appointment, powers, remuneration and duties of receiver.

109.—(1) A mortgagee entitled to appoint a receiver under the power in that behalf conferred by this Act shall not appoint a receiver until he has become entitled to exercise the power of sale conferred by this Act, but may then, by writing under his hand, appoint such person as he thinks fit to be receiver.

(2) A receiver appointed under the powers conferred by this Act, or any enactment replaced by this Act, shall be deemed to be the agent of the mortgagor; and the mortgagor shall be solely responsible for the receiver's acts or defaults unless the mortgage deed otherwise provides.

(3) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by action, distress, or otherwise, in the name either of the mortgagor or of the mortgagee, to the full extent of the estate or interest which the mortgagor could dispose of, and to give effectual receipts accordingly for the same, and to exercise any powers which may have been delegated to him by the mortgagee pursuant to this Act.

(4) A person paying money to the receiver shall not be concerned to inquire whether any case has happened to authorise the receiver to act.

(5) The receiver may be removed, and a new receiver may be appointed, from time to time by the mortgagee by writing under his hand.

(6) The receiver shall be entitled to retain out of any money received by him, for his remuneration, and in satisfaction of all costs, charges, and expenses incurred by him as receiver, a commission at such rate, not exceeding five per centum on the gross amount of all money received, as is specified in his appointment, and if no rate is so specified, then at the rate of five per centum on that gross amount, or at such other rate as the court thinks fit to allow, on application made by him for that purpose.

(7) The receiver shall, if so directed in writing by the mortgagee, insure to the extent, if any, to which the mortgagee might have insured and keep insured against loss or damage by fire, out of the money received

by him, any building, effects, or property comprised in the mortgage, whether affixed to the freehold or not, being of an insurable nature.

(8) Subject to the provisions of this Act as to the application of insurance money, the receiver shall apply all money received by him as follows, namely:

(i) In discharge of all rents, taxes, rates, and outgoings whatever affecting the mortgaged property; and

(ii) In keeping down all annual sums or other payments, and the interest on all principal sums, having priority to the mortgage in right whereof he is receiver; and

(iii) In payment of his commission, and of the premiums on fire, life, or other insurances, if any, properly payable under the mortgage deed or under this Act, and the cost of executing necessary or proper repairs directed in writing by the mortgagee; and

(iv) In payment of the interest accruing due in respect of any principal money due under the mortgage; and

(v) In or towards discharge of the principal money if so directed in writing by the mortgagee;

and shall pay the residue, if any, of the money received by him to the person who, but for the possession of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the mortgaged property.

Effect of bankruptcy of the mortgagor on the power to sell or appoint a receiver.

110.—(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 be exercised only on account of the act of bankruptcy or adjudication, without the leave of the court.

(2) This section applies only where the mortgage deed is executed after the commencement of this Act; and in this section "act of bankruptcy" has the same meaning as in the Bankruptcy Act, 1914.

4 & 5 Geo. 5. c. 59.

Effect of advance on joint account.

111.—(1) Where—

(*a*) in a mortgage, or an obligation for payment of money, or a transfer of a mortgage or of such an obligation, the sum, or any part of

the sum, advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account; or

(*b*) a mortgage, or such an obligation, or such a transfer is made to more persons than one, jointly;

the mortgage money, or other money or money's worth, for the time being due to those persons on the mortgage or obligation, shall, as between them and the mortgagor or obligor, be deemed to be and remain money or money's worth belonging to those persons on a joint account; and the receipt in writing of the survivors or last survivor of them, or of the personal representative of the last survivor, shall be a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

(2) This section applies if and so far as a contrary intention is not expressed in the mortgage, obligation, or transfer, and has effect subject to the terms of the mortgage, obligation, or transfer, and to the provisions therein contained.

(3) This section applies to any mortgage obligation or transfer made after the thirty-first day of December, eighteen hundred and eighty-one.

Notice of trusts on transfer of mortgage.

112.—(1) Where, on the transfer of a mortgage, the stamp duty, if payable according to the amount of the debt transferred, would exceed the sum of ten shillings, a purchaser shall not, by reason only of the transfer bearing a ten-shilling stamp, whether adjudicated or not, be deemed to have or to have had notice of any trust, or that the transfer was made for effectuating the discharge of a trustee or the appointment of a new trustee.

(2) This section applies to transfers made before as well as after the commencement of this Act.

Notice of trusts affecting mortgage debts.

113.—(1) A person dealing in good faith with a mortgagee, or with the mortgagor if the mortgage has been discharged released or postponed as to the whole or any part of the mortgaged property, shall not be concerned with any trust at any time affecting the mortgage money or the income thereof, whether or

not he has notice of the trust, and may assume unless the contrary is expressly stated in the instruments relating to the mortgage—

(*a*) that the mortgagees (if more than one) are or were entitled to the mortgage money on a joint account; and

(*b*) that the mortgagee has or had power to give valid receipts for the purchase money or mortgage money and the income thereof (including any arrears of interest) and to release or postpone the priority of the mortgage debt or any part thereof or to deal with the same or the mortgaged property or any part thereof;

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 dealings effected after such commencement.

(3) This section does not affect the liability of any person in whom the mortgage debt is vested for the purposes of any trust to give effect to that trust.

Transfers of mortgages.

114.—(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—

(*a*) 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

(*b*) 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

(*c*) 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 "transferee" includes his personal representatives and assigns.

(3) A transfer of mortgage may be made in the form contained in the Third 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, 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.

Reconveyances of mortgages by endorsed receipts.

115.—(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 chargee by way of legal mortgage or 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*) Where a mortgage takes effect by demise or subdemise, as a surrender of the term, 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, 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;

and in either case, as a discharge of the mortgaged property from all principal money and interest secured by, and from all claims under the mortgage, but without prejudice to any term or other interest which is paramount to the estate or interest of the mortgagee or other person in whom the mortgaged property was vested.

(2) Provided that, where by the receipt the money appears to have been paid by a person who is not entitled to the immediate equity of redemption, the receipt shall operate as if the benefit of the mortgage had by deed been transferred to him; unless—

(*a*) it is otherwise expressly provided; or

(*b*) 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, and it is not expressly provided that the receipt is to operate as a transfer.

(3) Nothing in this section confers 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 does not operate as a transfer.

(4) This section does 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 the Third 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, subject to any interest which is paramount to the mortgage.

(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 for the time being owing, and is endorsed on, written at the foot of, or annexed to, one of the mortgage deeds.

(8) This section applies to the discharge of a charge by way of legal mortgage, and to the discharge of 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.

(9) 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.

(10) This section does not apply to the discharge of a charge or incumbrance registered under the Land Registration Act, 1925.

(11) In this section "mortgaged property" means the property remaining subject to the mortgage at the date of the receipt.

Cesser of mortgage terms.

116. 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, when the money secured by the mortgage has been discharged, become a satisfied term and shall cease.

Forms of statutory legal charges.

117.—(1) As a special form of charge by way of legal mortgage, a mortgage of freehold or leasehold land may be made by a deed expressed to be made by way of statutory mortgage, being in one of the forms (Nos. 1 or 4) set out in the Fourth Schedule to this Act, with such variations and additions, if any, as circumstances may require, and if so made the provisions of this section shall apply thereto.

(2) There shall be deemed to be included, and there shall by virtue of this Act be implied, in such a mortgage deed—

First, a covenant with the mortgagee by the person therein expressed to charge as mortgagor to the effect following, namely:

That the mortgagor will, on the stated day, pay to the mortgagee the stated mortgage money, with interest thereon in the meantime at the stated rate, and will thereafter, if and as long as the mortgage money or any part thereof remains unpaid, pay to the mortgagee (as well after as before any judgment is obtained under the mortgage) interest thereon, or on the unpaid part thereof, at the stated rate, by equal half-yearly payments the first thereof to be

made at the end of six months from the day stated for payment of the mortgage money:

Secondly, a provision to the following effect (namely):

That if the mortgagor on the stated day pays to the mortgagee the stated mortgage money, with interest thereon in the meantime at the stated rate, the mortgagee at any time thereafter, at the request and cost of the mortgagor, shall discharge the mortgaged property or transfer the benefit of the mortgage as the mortgagor may direct.

This subsection applies to a mortgage deed made under section twenty-six of the Conveyancing Act, 1881, with a substitution of a reference to "the person therein expressed to convey as mortgagor" for the reference in this subsection to "the person therein expressed to charge as mortgagor."

Forms of statutory transfers of legal charges.

118.—(1) A transfer of a statutory mortgage may be made by a deed expressed to be made by way of statutory transfer of mortgage, being in such one of the three forms (Nos. 2, 3 or 4) set out in the Fourth Schedule to this Act as may be appropriate to the case with such variations and additions, if any, as circumstances may require, and if so made the provisions of this section shall apply thereto.

(2) In whichever of those three forms the deed of transfer is made, it shall have effect as follows (namely):—

(i) There shall become vested in the person to whom the benefit of the mortgage is expressed to be transferred (who, with his personal representatives and assigns, is in this section designated 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:

(ii) All the term and interest, if any, subject to redemption, of the mortgagee in the mortgaged land shall vest in the transferee, subject to redemption.

(3) If a covenantor joins in the deed of transfer, there shall also be deemed to be included, and there shall by virtue of this Act be implied therein, a covenant with the transferee by the person expressed to join therein as covenantor to the effect following (namely):

That the covenantor will, on the next of the days by the mortgage deed fixed for payment of interest pay to the transferee the stated mortgage money, or so much thereof as then remains unpaid, with interest thereon, or on the unpaid part thereof, in the meantime, at the rate stated in the mortgage deed; and will thereafter, as long as the mortgage money or any part thereof remains unpaid, pay to the transferee interest on that sum, or the unpaid part thereof, at the same rate, on the successive days by the mortgage deed fixed for payment of interest.

(4) If the deed of transfer is made in the Form No. 4, it shall, by virtue of this Act, operate not only as a statutory transfer of mortgage, but also as a statutory mortgage, and the provisions of this section shall have effect in relation thereto accordingly; but it shall not be liable to any increased stamp duty by reason only of it being designated a mortgage.

(5) This section applies to the transfer of a statutory mortgage created under any enactment replaced by this Act.

Implied covenants, joint and several.

119. In a deed of statutory mortgage, or of statutory transfer of mortgage, where more persons than one are expressed to convey or charge as mortgagors, or to join as covenantors, the implied covenant on their part shall be deemed to be a joint and several covenant by them; and where there are more mortgagees or more transferees than one, the implied covenant with them shall be deemed to be a covenant with them jointly, unless the amount secured is expressed to be secured to them in shares or distinct sums, in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him.

Form of discharge of statutory

120. A statutory mortgage may be surrendered or discharged by a receipt in the form (No. 5) set out

in the Fourth Schedule to this Act with such variations and additions, if any, as circumstances may require. mortgage or charge.

Rentcharges.

121.—(1) Where a person is entitled to receive out of any land, or out of the income of any land, any annual sum, payable half-yearly or otherwise, whether charged on the land or on the income of the land, and whether by way of rentcharge or otherwise, not being rent incident to a reversion, then, subject and without prejudice to all estates, interests, and rights having priority to the annual sum, the person entitled to receive the annual sum shall have such remedies for recovering and compelling payment thereof as are described in this section, as far as those remedies might have been conferred by the instrument under which the annual sum arises, but not further. Remedies for the recovery of annual sums charged on land.

(2) If at any time the annual sum 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 may enter into and distrain on the land charged or any part thereof, and dispose according to law of any distress found, to the intent that thereby or otherwise the annual sum and all arrears thereof, and all costs and expenses occasioned by non-payment thereof, may be fully paid.

(3) If at any time the annual sum or any part thereof is unpaid for forty days next after the time appointed for any payment in respect thereof, then, although no legal demand has been made for payment thereof, the person entitled to receive the annual sum may enter into possession of and hold the land charged or any part thereof, and take the income thereof, until thereby or otherwise the annual sum and all arrears thereof due at the time of his entry, or afterwards becoming due during his continuance in possession, and all costs and expenses occasioned by nonpayment of the annual sum, are fully paid; and such possession when taken shall be without impeachment of waste.

(4) In the like case the person entitled to the annual sum, whether taking possession or not, may also by deed demise the land charged, or any part thereof, to a trustee for a term of years, with or without impeachment of waste, on trust, by all or any of the means hereinafter mentioned, or by any other reasonable means, to

raise and pay the annual sum and all arrears thereof due or to become due, and all costs and expenses occasioned by nonpayment of the annual sum, or incurred in compelling or obtaining payment thereof, or otherwise relating thereto, including the costs of the preparation and execution of the deed of demise, and the costs of the execution of the trusts of that deed:

Provided that this subsection shall not authorise the creation of a legal term of years absolute after the commencement of this Act, save where the annual sum is a rentcharge held for a legal estate.

The surplus, if any, of the money raised, or of the income received, under the trusts of the deed shall be paid to the person for the time being entitled to the land therein comprised in reversion immediately expectant on the term thereby created.

The means by which such annual sum, arrears, costs, and expenses may be raised includes—

(*a*) the creation of a legal mortgage or a sale (effected by assignment or subdemise) of the term created in the land charged or any part thereof,

(*b*) the receipt of the income of the land comprised in the term.

(5) This section applies only if and as far as a contrary intention is not expressed in the instrument under which the annual sum arises, and has effect subject to the terms of that instrument and to the provisions therein contained.

(6) The rule of law relating to perpetuities does not apply to any powers or remedies conferred by this section, nor to the same or like powers or remedies conferred by any instrument for recovering or compelling the payment of any annual sum within the meaning of this section.

(7) The powers and remedies conferred by this section apply where the instrument creating the annual sum comes into operation after the thirty-first day of December, eighteen hundred and eighty-one, and whether the instrument conferring the power under which the annual sum was authorised to be created came into operation before or after that date, unless the instrument creating the power or under which the annual sum is created otherwise directs.

Creation of rentcharges

122.—(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. charged on another rentcharge and remedies for recovery thereof.

(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 this Act relating to the appointment, powers, remuneration and duties of a receiver, shall apply in like manner as if such person were a mortgagee entitled to exercise the power of sale conferred by this 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 the last preceding section, but subsection (6) of that section shall apply and have effect as if herein re-enacted and in terms made applicable to the powers conferred by this section.

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

Powers of Attorney.

123.—(1) The donee of a power of attorney may, if he thinks fit, execute or do any assurance, instrument, or thing in and with his own name and signature, and under his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument, and thing so executed and done shall be as effectual in law, to all intents, as if it had been executed or done by the donee of the power in the name and with the signature and seal of the donor thereof. Execution under power of attorney

(2) This section applies to powers of attorney created by instruments executed either before or after the commencement of this Act, and operates without prejudice to any statutory direction that an instrument is to be executed in the name of an estate owner.

Payment by attorney under power without notice of death, &c.

124.—(1) Any person making any payment or doing any act, in good faith, in pursuance of a power of attorney, shall not be liable in respect of the payment or act by reason that before the payment or act the donor of the power had died or become subject to disability or bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy, or revocation was not at the time of the payment or act known to the person making or doing the same.

(2) 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.

Where the donee of the power of attorney is a corporation aggregate, the officer appointed to act for the corporation in the execution of the power may make the statutory declaration in like manner as if that officer had been the donee of the power.

Where probate or letters of administration have been granted to any person, as attorney for some other person, this section applies as if the payment made or acts done under the grant had been made or done under a power of attorney.

(3) This section does not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had against the payer if the payment had not been made by him.

(4) This section applies to payments and acts made and done before or after the commencement of this Act, and in this section "power of attorney" includes a power of attorney implied by statute.

Powers of attorney relating to

125.—(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 the statutory enactment in that behalf, unless the instrument only relates to one transaction and is to be handed over on the completion of that transaction: land to be filed.

Provided that, if the instrument relates to land or a charge registered under the Land Registration Act, 1925, 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, and no right to rescind a contract shall arise by reason of the enforcement of the provisions of this section.

126.—(1) If a power of attorney given for valuable consideration is in the instrument creating the power expressed to be irrevocable, then, in favour of a purchaser,— Effect of irrevocable power of attorney for value

(i) The power shall not be revoked at any time, either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, disability or bankruptcy of the donor of the power; and

(ii) Any act done at any time by the donee of the power in pursuance of the power shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, disability or bankruptcy of the donor of the power, had not been done or happened; and

(iii) Neither the donee of the power nor the purchaser shall at any time be prejudicially affected by notice of anything done by the donor of the power without the concurrence of the donee of the power, or of the death, disability or bankruptcy of the donor of the power.

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

Effect of power of attorney irrevocable for a fixed time.

127.—(1) If a power of attorney, whether given for valuable consideration or not, is in the instrument creating the power expressed to be irrevocable for a fixed time therein specified, not exceeding one year from the date of the instrument, then, in favour of a purchaser,—

(i) The power shall not be revoked for and during that fixed time either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, disability or bankruptcy of the donor of the power; and

(ii) Any act done within that fixed time by the donee of the power in pursuance of the power shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, disability or bankruptcy of the donor of the power, had not been done or happened; and

(iii) Neither the donee of the power, nor the purchaser, shall at any time be prejudicially affected by notice either during or after that fixed time of anything done by the donor of the power during that fixed time without the concurrence of the donee of the power, or of the death, disability or bankruptcy of the donor of the power, within that fixed time.

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

Devolution of power of attorney

128.—(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. given to a purchaser.

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

(3) This section does 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, unless the power is protected by a caution or other entry on the register.

129.—(1) A married woman, whether an infant or not, has power, as if she were unmarried and of full age, by deed, to appoint an attorney on her behalf for the purpose of executing any deed or doing any other act which she might herself execute or do, and the provisions of this Act relating to instruments creating powers of attorney apply thereto. Power of attorney granted by married woman.

(2) This section applies to deeds executed after the thirty-first day of December, eighteen hundred and eighty-one.

PART IV.

EQUITABLE INTERESTS AND THINGS IN ACTION.

130.—(1) An interest in tail or in tail male or in tail female or in tail special (in this Act referred to as "an entailed interest") may be created by way of trust in any property, real or personal, but only by the like expressions as those by which 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, and accordingly all statutory provisions relating to estates tail in real property shall apply to entailed interests in personal property. Creation of entailed interests in real and personal property.

Personal estate so entailed (not being chattels settled as heirlooms) may be invested, applied, and otherwise dealt with as if the same were capital money

or securities representing capital money arising under the Settled Land Act, 1925, from land settled on the like trusts.

(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 provided by the next succeeding section) 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.

(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 as an equitable interest, 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, or as tenant by the curtesy, if the entailed interest had, before the commencement of this Act, been limited in respect of freehold land governed by the general law in force immediately before such commencement, and such law had remained unaffected.

(5) Where personal chattels are settled without reference to settled land on trusts creating entailed interests therein, the trustees, with the consent of the usufructuary for the time being if of full age, may sell the chattels or any of them, and the net proceeds of any such sale shall be held in trust for and shall go to the same persons successively, in the same manner and for

the same interests, as the chattels sold would have been held and gone if they had not been sold, and the income of investments representing such proceeds of sale shall be applied accordingly.

(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.

(7) In this Act where the context so admits "entailed interest" includes an estate tail (now made to take effect as an equitable interest) created before the commencement of this Act.

Abolition of the rule in Shelley's case.

131. Where by any instrument coming into operation after the commencement of this Act an interest in any property 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 section 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 in any property 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 under the general law in force before the commencement of this Act.

As to heirs taking by purchase.

132.—(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 to confer a corresponding equitable interest in the property on the person who would, if the general law in force immediately before such commencement had remained unaffected, 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 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.

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

133.—(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 amended 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.

Restriction on executory limitations.

134.—(1) Where there is a person entitled to—

(*a*) an equitable interest in land for an estate in fee simple or for any less interest not being an entailed interest, or

(*b*) any interest in other property, not being an entailed interest,

with an executory limitation over on default or failure of all or any of his issue, whether within or at any specified period or time or not, that executory limitation shall be or become void and incapable of taking effect, if and as soon as there is living any issue who has attained the age of twenty-one years of the class on default or failure whereof the limitation over was to take effect.

(2) This section applies where the executory limitation is contained in an instrument coming into operation after the thirty-first day of December, eighteen hundred and eighty-two, save that, as regards instruments coming into operation before the commencement of this Act, it only applies to limitations of land for an estate in fee, or for a term of years absolute or determinable on life, or for a term of life.

Equitable waste.

135. An equitable interest for life without impeachment of waste does not confer upon the tenant for life any right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such equitable interest.

Legal assignments of things in action.

136.—(1) Any absolute assignment by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or other legal thing in action, of which express notice in writing has been given to the debtor, trustee or other person from whom the assignor would have been entitled to claim such debt or thing in action, is effectual in law (subject to equities having priority over the right of the assignee) to pass and transfer from the date of such notice—

(*a*) the legal right to such debt or thing in action;

(*b*) all legal and other remedies for the same; and

(*c*) the power to give a good discharge for the same without the concurrence of the assignor:

Provided that, if the debtor, trustee or other person liable in respect of such debt or thing in action has notice—

(*a*) that the assignment is disputed by the assignor or any person claiming under him; or

(*b*) of any other opposing or conflicting claims to such debt or thing in action;

he may, if he thinks fit, either call upon the persons making claim thereto to interplead concerning the same, or pay the debt or other thing in action into court under the provisions of the Trustee Act, 1925.

(2) This section does not affect the provisions of the Policies of Assurance Act, 1867. 30 & 31 Vict. c. 144.

Dealings with life interests, reversions and other equitable interests.

137.—(1) The law applicable to dealings with equitable things in action which regulates the priority of competing interests therein, shall, as respects dealings with equitable interests in land, capital money, and securities representing capital money effected after the commencement of this Act, apply to and regulate the priority of competing interests therein.

This subsection applies whether or not the money or securities are in court.

(2) (i) In the case of a dealing with an equitable interest in settled land, capital money or securities representing capital money, the persons to be served with notice of the dealing shall be the trustees of the settlement; and where the equitable interest is created by a derivative or subsidiary settlement, the persons to be served with notice shall be the trustees of that settlement.

(ii) In the case of a dealing with an equitable interest in the proceeds of sale of land or in the rents and profits until sale the persons to be served with notice shall, as heretofore, be the trustees for sale.

(iii) In any other case the person to be served with notice of a dealing with an equitable interest in land shall be the estate owner of the land affected.

The persons on whom notice is served pursuant to this subsection shall be affected thereby in the same manner as if they had been trustees of personal property out of which the equitable interest was created or arose.

This subsection does not apply where the money or securities are in court.

(3) A notice, otherwise than in writing, given to, or received by, a trustee after the commencement of this Act as respects any dealing with an equitable interest in real or personal property, shall not affect the priority of competing claims of purchasers in that equitable interest.

(4) Where, as respects any dealing with an equitable interest in real or personal property—

(*a*) the trustees are not persons to whom a valid notice of the dealing can be given; or

(*b*) there are no trustees to whom a notice can be given; or

(*c*) for any other reason a valid notice cannot be served, or cannot be served without unreasonable cost or delay;

a purchaser may at his own cost require that—

(i) a memorandum of the dealing be endorsed, written on or permanently annexed to the instrument creating the trust;

(ii) the instrument be produced to him by the person having the possession or custody thereof to prove that a sufficient memorandum has been placed thereon or annexed thereto.

Such memorandum shall, as respects priorities, operate in like manner as if notice in writing of the dealing had been given to trustees duly qualified to receive the notice at the time when the memorandum is placed on or annexed to the instrument creating the trust.

(5) Where the property affected is settled land, the memorandum shall be placed on or annexed to the trust instrument and not the vesting instrument.

Where the property affected is land held on trust for sale, the memorandum shall be placed on or annexed to the instrument whereby the equitable interest is created.

(6) Where the trust is created by statute or by operation of law, or in any other case where there is no instrument whereby the trusts are declared, the instrument under which the equitable interest is acquired or which is evidence of the devolution thereof shall, for the purposes of this section, be deemed the instrument creating the trust.

In particular, where the trust arises by reason of an intestacy, the letters of administration or probate in force when the dealing was effected shall be deemed such instrument.

(7) Nothing in this section affects any priority acquired before the commencement of this Act.

(8) Where a notice in writing of a dealing with an equitable interest in real or personal property has been served on a trustee under this section, the trustees from time to time of the property affected shall be entitled to the custody of the notice, and the notice shall be delivered to them by any person who for the time being may have the custody thereof; and subject to the payment of costs, any person interested in the equitable interest may require production of the notice.

(9) The liability of the estate owner of the legal estate affected to produce documents and furnish information to persons entitled to equitable interests therein shall correspond to the liability of a trustee for sale to produce documents and furnish information to persons entitled to equitable interests in the proceeds of sale of the land.

(10) This section does not apply until a trust has been created, and in this section "dealing" includes a disposition by operation of law.

Power to nominate a trust corporation to receive notices.

138.—(1) By any settlement or other instrument creating a trust, a trust corporation may be nominated to whom notices of dealings affecting real or personal property may be given, whether or not under the foregoing section, and in default of such nomination the trustees (if any) of the instrument, or the court on the application of any person interested, may make the nomination.

(2) The person having the possession or custody of any instrument on which notices under that section may be endorsed shall cause the name of the trust corporation to whom notices may be given to be endorsed upon that instrument.

(3) Notice given to any trust corporation whose name is so endorsed shall operate in the same way as a notice or endorsement under the foregoing section.

(4) Where a trust corporation is acting for the purposes of this section a notice given to a trustee of the trust instrument of a dealing relating to the trust property shall forthwith be delivered or sent by post by the trustee to the trust corporation, and until received by the corporation shall not affect any priority.

(5) A trust corporation shall not be nominated for the purposes of this section—

(*a*) unless that corporation consents to act; or

(*b*) where that corporation has any beneficial interest in or charge upon the trust property; or

(*c*) where a trust corporation is acting as the trustee or one of the trustees of the instrument creating the trust.

(6) Where a trust corporation acting for the purposes of this section becomes entitled to any beneficial interest in or charge upon the trust property, another trust corporation shall be nominated in its place and all documents relating to notices affecting the trust shall be delivered to the corporation so nominated.

(7) A trust corporation acting for the purposes of this section shall be bound to keep a separate register

of notices of dealings in respect of each equitable interest and shall enter therein—

(*a*) the date of the notice;

(*b*) the name of the person giving the notice;

(*c*) short particulars of the equitable interest intended to be affected; and

(*d*) short particulars of the effect of the dealing if mentioned in the notice.

(8) The trust corporation may, before making any entry in the register, require the applicant to pay a fee not exceeding the prescribed fee.

(9) Subject to the payment of a fee not exceeding the prescribed fee, the trust corporation shall permit any person who would, if the corporation had been the trustee of the trust instrument, have been entitled to inspect notices served on the trustee, to inspect and take copies of the register and any notices held by the corporation.

(10) Subject to the payment by the applicant of a fee not exceeding the prescribed fee, the trust corporation shall reply to all inquiries respecting notices received by the corporation in like manner and in the same circumstances as if the corporation had been the trustee of the trust instrument.

(11) In this section "prescribed fee" means the fee prescribed by the Treasury, with the sanction of the Lord Chancellor, in cases where the Public Trustee acts as a trust corporation for the purposes of this section.

PART V.

LEASES AND TENANCIES.

Effect of extinguishment of reversion.

139.—(1) Where a reversion expectant on a lease of land is surrendered or merged, the estate or interest which as against the lessee for the time being confers the next vested right to the land, shall be deemed the reversion for the purpose of preserving the same incidents and obligations as would have affected the original reversion had there been no surrender or merger thereof.

(2) This section applies to surrenders or mergers effected after the first day of October, eighteen hundred and forty-five.

Apportionment of conditions on severance.

140.—(1) Notwithstanding the severance by conveyance, surrender, or otherwise of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry, and every other condition contained in the lease, shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in the part of the land as to which the term has not been surrendered, or has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease.

(2) In this section "right of re-entry" includes a right to determine the lease by notice to quit or otherwise; but where the notice is served by a person entitled to a severed part of the reversion so that it extends to part only of the land demised, the lessee may within one month determine the lease in regard to the rest of the land by giving to the owner of the reversionary estate therein a counter notice expiring at the same time as the original notice.

(3) This section applies to leases made before or after the commencement of this Act and whether the severance of the reversionary estate or the partial avoidance or cesser of the term was effected before or after such commencement:

Provided that, where the lease was made before the first day of January eighteen hundred and eighty-two nothing in this section shall affect the operation of a severance of the reversionary estate or partial avoidance or cesser of the [term which was effected before the commencement of this Act.

Rent and benefit of lessee's covenants

141.—(1) Rent reserved by a lease, and the benefit of every covenant or provision therein contained, having reference to the subject-matter thereof, and on the

lessee's part to be observed or performed, and every condition of re-entry and other condition therein contained, shall be annexed and incident to and shall go with the reversionary estate in the land, or in any part thereof, immediately expectant on the term granted by the lease, notwithstanding severance of that reversionary estate, and without prejudice to any liability affecting a covenantor or his estate. to run with the reversion.

(2) Any such rent, covenant or provision shall be capable of being recovered, received, enforced, and taken advantage of, by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased.

(3) Where that person becomes entitled by conveyance or otherwise, such rent, covenant or provision may be recovered, received, enforced or taken advantage of by him notwithstanding that he becomes so entitled after the condition of re-entry or forfeiture has become enforceable, but this subsection does not render enforceable any condition of re-entry or other condition waived or released before such person becomes entitled as aforesaid.

(4) This section applies to leases made before or after the commencement of this Act, but does not affect the operation of—

(*a*) any severance of the reversionary estate; or

(*b*) any acquisition by conveyance or otherwise of the right to receive or enforce any rent covenant or provision;

effected before the commencement of this Act.

142.—(1) The obligation under a condition or of a covenant entered into by a lessor with reference to the subject-matter of the lease shall, if and as far as the lessor has power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is from time to time vested by conveyance, devolution in law, Obligation of lessor's covenants to run with reversion.

or otherwise; and, if and as far as the lessor has power to bind the person from time to time entitled to that reversionary estate, the obligation aforesaid may be taken advantage of and enforced against any person so entitled.

(2) This section applies to leases made before or after the commencement of this Act, whether the severance of the reversionary estate was effected before or after such commencement:

Provided that, where the lease was made before the first day of January eighteen hundred and eighty-two, nothing in this section shall affect the operation of any severance of the reversionary estate effected before such commencement.

This section takes effect without prejudice to any liability affecting a covenantor or his estate.

Effect of licences granted to lessees.

143.—(1) Where a licence is granted to a lessee to do any act, the licence, unless otherwise expressed, extends only—

(*a*) to the permission actually given; or

(*b*) to the specific breach of any provision or covenant referred to; or

(*c*) to any other matter thereby specifically authorised to be done;

and the licence does not prevent any proceeding for any subsequent breach unless otherwise specified in the licence.

(2) Notwithstanding any such licence—

(*a*) All rights under covenants and powers of re-entry contained in the lease remain in full force and are available as against any subsequent breach of covenant, condition or other matter not specifically authorised or waived, in the same manner as if no licence had been granted; and

(*b*) The condition or right of entry remains in force in all respects as if the licence had not been granted, save in respect of the particular matter authorised to be done.

(3) Where in any lease there is a power or condition of re-entry on the lessee assigning, subletting or doing any other specified act without a licence, and a licence is granted—

(*a*) to any one of two or more lessees to do any act, or to deal with his equitable share or interest; or

(*b*) to any lessee, or to any one of two or more lessees to assign or underlet part only of the property, or to do any act in respect of part only of the property;

the licence does not operate to extinguish the right of entry in case of any breach of covenant or condition by the co-lessees of the other shares or interests in the property, or by the lessee or lessees of the rest of the property (as the case may be) in respect of such shares or interests or remaining property, but the right of entry remains in force in respect of the shares, interests or property not the subject of the licence.

This subsection does not authorise the grant after the commencement of this Act of a licence to create an undivided share in a legal estate.

(4) This section applies to licences granted after the thirteenth day of August, eighteen hundred and fifty-nine.

No fine to be exacted for licence to assign.

144. In all leases containing a covenant, condition, or agreement against assigning, underletting, or parting with the possession, or disposing of the land or property leased without licence or consent, such covenant, condition, or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a proviso to the effect that no fine or sum of money in the nature of a fine shall be payable for or in respect of such licence or consent; but this proviso does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expense incurred in relation to such licence or consent.

Lessee to give notice of ejectment to lessor.

145. Every lessee to whom there is delivered any writ for the recovery of premises demised to or held by him, or to whose knowledge any such writ comes, shall forthwith give notice thereof to his lessor or his bailiff or receiver, and, if he fails so to do, he shall be liable to

forfeit to the person of whom he holds the premises an amount equal to the value of three years' improved or rack rent of the premises, to be recovered by action in any court having jurisdiction in respect of claims for such an amount.

Restrictions on and relief against forfeiture of leases and under-leases.

146.—(1) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease shall not be enforceable, by action or otherwise, unless and until the lessor serves on the lessee a notice—

(*a*) specifying the particular breach complained of; and

(*b*) if the breach is capable of remedy, requiring the lessee to remedy the breach; and

(*c*) in any case, requiring the lessee to make compensation in money for the breach;

and the lessee fails, within a reasonable time thereafter, to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money, to the satisfaction of the lessor, for the breach.

(2) Where a lessor is proceeding, by action or otherwise, to enforce such a right of re-entry or forfeiture, the lessee may, in the lessor's action, if any, 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 breach in the future, as the court, in the circumstances of each case, thinks fit.

(3) A lessor shall be entitled to recover as a debt due to him from a lessee, and in addition to damages (if any), all reasonable costs and expenses properly incurred by the lessor in the employment of a solicitor and surveyor or valuer, or otherwise, in reference to any breach giving rise to a right of re-entry or forfeiture which, at the request of the lessee, is waived by the lessor, or from which the lessee is relieved, under the provisions of this Act.

(4) Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, or for non-payment of rent, the court may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, either in the lessor's action (if any) or in any action brought by such person for that purpose, make an order vesting, for the whole term of the lease or any less term, the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security, or otherwise, as the court in the circumstances of each case may think fit, but in no case shall any such under-lessee be entitled to require a lease to be granted to him for any longer term than he had under his original sub-lease.

(5) For the purposes of this section—

(*a*) "Lease" includes an original or derivative under-lease; also an agreement for a lease where the lessee has become entitled to have his lease granted; also a grant at a fee farm rent, or securing a rent by condition;

(*b*) "Lessee" includes an original or derivative under-lessee, and the persons deriving title under a lessee; also a grantee under any such grant as aforesaid and the persons deriving title under him;

(*c*) "Lessor" includes an original or derivative under-lessor, and the persons deriving title under a lessor; also a person making such grant as aforesaid and the persons deriving title under him;

(*d*) "Under-lease" includes an agreement for an underlease where the under-lessee has become entitled to have his underlease granted;

(*e*) "Under-lessee" includes any person deriving title under an under-lessee.

(6) This section applies although the proviso or stipulation under which the right of re-entry or forfeiture

accrues is inserted in the lease in pursuance of the directions of any Act of Parliament.

(7) For the purposes of this section a lease limited to continue as long only as the lessee abstains from committing a breach of covenant shall be and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.

(8) This section does not extend—

(i) To a covenant or condition against assigning, underletting, parting with the possession, or disposing of the land leased where the breach occurred before the commencement of this Act; or

(ii) In the case of a mining lease, to a covenant or condition for allowing the lessor to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the workings thereof.

(9) This section does not apply to a condition for forfeiture on the bankruptcy of the lessee or on taking in execution of the lessee's interest if contained in a lease of—

(*a*) Agricultural or pastoral land;

(*b*) Mines or minerals;

(*c*) A house used or intended to be used as a public-house or beershop;

(*d*) A house let as a dwelling-house, with the use of any furniture, books, works of art, or other chattels not being in the nature of fixtures;

(*e*) Any property with respect to which the personal qualifications of the tenant are of importance for the preservation of the value or character of the property, or on the ground of neighbourhood to the lessor, or to any person holding under him.

(10) Where a condition of forfeiture on the bankruptcy of the lessee or on taking in execution of the lessee's interest is contained in any lease, other than a

lease of any of the classes mentioned in the last subsection, then—

(*a*) if the lessee's interest is sold within one year from the bankruptcy or taking in execution, this section applies to the forfeiture condition aforesaid;

(*b*) if the lessee's interest is not sold before the expiration of that year, this section only applies to the forfeiture condition aforesaid during the first year from the date of the bankruptcy or taking in execution.

(11) This section does not, save as otherwise mentioned, affect the law relating to re-entry or forfeiture or relief in case of non-payment of rent.

(12) This section has effect notwithstanding any stipulation to the contrary.

Relief against notice to effect decorative repairs.

147.—(1) After a notice is served on a lessee relating to the internal decorative repairs to a house or other building, he may apply to the court for relief, and if, having regard to all the circumstances of the case (including in particular the length of the lessee's term or interest remaining unexpired), the court is satisfied that the notice is unreasonable, it may, by order, wholly or partially relieve the lessee from liability for such repairs.

(2) This section does not apply:—

(i) where the liability arises under an express covenant or agreement to put the property in a decorative state of repair and the covenant or agreement has never been performed;

(ii) to any matter necessary or proper—

(*a*) for putting or keeping the property in a sanitary condition, or

(*b*) for the maintenance or preservation of the structure;

(iii) to any statutory liability to keep a house in all respects reasonably fit for human habitation;

(iv) to any covenant or stipulation to yield up the house or other building in a specified state of repair at the end of the term.

(3) In this section "lease" includes an underlease and an agreement for a lease, and "lessee" has a corresponding meaning and includes any person liable to effect the repairs.

(4) This section applies whether the notice is served before or after the commencement of this Act, and has effect notwithstanding any stipulation to the contrary.

Waiver of a covenant in a lease.

148.—(1) Where any actual waiver by a lessor or the persons deriving title under him of the benefit of any covenant or condition in any lease is proved to have taken place in any particular instance, such waiver shall not be deemed to extend to any instance, or to any breach of covenant or condition save that to which such waiver specially relates, nor operate as a general waiver of the benefit of any such covenant or condition.

(2) This section applies unless a contrary intention appears and extends to waivers effected after the twenty-third day of July, eighteen hundred and sixty.

Abolition of interesse termini, and as to reversionary leases and leases for lives.

149.—(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 interest or powers of the grantor, from the date fixed for commencement of the term, without actual entry.

(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 prejudicially affects the right of any person to recover any rent or to enforce or take advantage of any covenants or conditions, or, as respects terms or interests created before the commencement of this Act, operates to vary

any statutory or other obligations imposed in respect of such terms or interests.

(5) Nothing in this Act affects the rule of law that a legal term, whether or not being a mortgage term, may be created to take effect in reversion expectant on a longer term, which rule is hereby confirmed.

(6) 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 the Law of Property Act, 1922, 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:

Provided that—

(*a*) this subsection shall 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;

(*b*) the person in whom the leasehold interest is vested by virtue of Part V. of the Law of Property Act, 1922, shall, for the purposes of this subsection, be deemed an original lessee;

(*c*) 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;

(*d*) if there are no quarter days specially applicable to the tenancy, notice may be given to determine the tenancy on one of the usual quarter days.

Surrender of a lease, without prejudice to underleases with a view to the grant of a new lease.

150.—(1) A lease may be surrendered with a view to the acceptance of a new lease in place thereof, without a surrender of any under-lease derived thereout.

(2) A new lease may be granted and accepted, in place of any lease so surrendered, without any such surrender of an under-lease as aforesaid, and the new lease operates as if all under-leases derived out of the surrendered lease had been surrendered before the surrender of that lease was effected.

(3) The lessee under the new lease and any person deriving title under him is entitled to the same rights and remedies in respect of the rent reserved by and the covenants, agreements and conditions contained in any under-lease as if the original lease had not been surrendered but was or remained vested in him.

(4) Each under-lessee and any person deriving title under him is entitled to hold and enjoy the land comprised in his under-lease (subject to the payment of any rent reserved by and to the observance of the covenants agreements and conditions contained in the under-lease) as if the lease out of which the under-lease was derived had not been surrendered.

(5) The lessor granting the new lease and any person deriving title under him is entitled to the same remedies, by distress or entry in and upon the land comprised in any such under-lease for rent reserved by or for breach of any covenant, agreement or condition contained in the new lease (so far only as the rents reserved by or the covenants, agreements or conditions contained in the new lease do not exceed or impose greater burdens than those reserved by or contained in the original lease out of which the under-lease is derived) as he would have had—

(*a*) If the original lease had remained on foot; or

(*b*) If a new under-lease derived out of the new lease had been granted to the under-lessee or a person deriving title under him:

as the case may require.

(6) This section does not affect the powers of the court to give relief against forfeiture.

Provision as to attornments by tenants.

151.—(1) Where land is subject to a lease—

(*a*) the conveyance of a reversion in the land expectant on the determination of the lease; or

(*b*) the creation or conveyance of a rentcharge to issue or issuing out of the land;

shall be valid without any attornment of the lessee:

Nothing in this subsection—

(i) affects the validity of any payment of rent by the lessee to the person making the conveyance or grant before notice of the conveyance or grant is given to him by the person entitled thereunder; or

(ii) renders the lessee liable for any breach of covenant to pay rent, on account of his failure to pay rent to the person entitled under the conveyance or grant before such notice is given to the lessee.

(2) An attornment by the lessee in respect of any land to a person claiming to be entitled to the interest in the land of the lessor, if made without the consent of the lessor, shall be void.

This subsection does not apply to an attornment—

(*a*) made pursuant to a judgment of a court of competent jurisdiction; or

(*b*) to a mortgagee, by a lessee holding under a lease from the mortgagor where the right of redemption is barred; or

(*c*) to any other person rightfully deriving title under the lessor.

Leases invalidated by reason of non-compliance with terms of powers under which they are granted.

152.—(1) Where in the intended exercise of any power of leasing, whether conferred by an Act of Parliament or any other instrument, a lease (in this section referred to as an invalid lease) is granted, which by reason of any failure to comply with the terms of the power is invalid, then—

(*a*) as against the person entitled after the determination of the interest of the grantor to the reversion; or

(*b*) as against any other person who, subject to any lease properly granted under the power, would have been entitled to the land comprised in the lease;

the lease, if it was made in good faith, and the lessee has entered thereunder, shall take effect in equity as a contract for the grant, at the request of the lessee, of a valid lease under the power, of like effect as the invalid lease, subject to such variations as may be necessary in order to comply with the terms of the power:

Provided that a lessee under an invalid lease shall not, by virtue of any such implied contract, be entitled to obtain a variation of the lease if the other persons who would have been bound by the contract are willing and able to confirm the lease without variation.

(2) Where a lease granted in the intended exercise of such a power is invalid by reason of the grantor not having power to grant the lease at the date thereof, but the grantor's interest in the land comprised therein continues after the time when he might, in the exercise of the power, have properly granted a lease in the like terms, the lease shall take effect as a valid lease in like manner as if it had been granted at that time.

(3) Where during the continuance of the possession taken under an invalid lease the person for the time being entitled, subject to such possession, to the land comprised therein or to the rents and profits thereof, is able to confirm the lease without variation, the lessee, or other person who would have been bound by the lease had it been valid, shall, at the request of the person so able to confirm the lease, be bound to accept a confirmation thereof, and thereupon the lease shall have effect and be deemed to have had effect as a valid lease from the grant thereof.

Confirmation under this subsection may be by a memorandum in writing signed by or on behalf of the persons respectively confirming and accepting the confirmation of the lease.

(4) Where a receipt or a memorandum in writing confirming an invalid lease is, upon or before the acceptance of rent thereunder, signed by or on behalf of the

person accepting the rent, that acceptance shall, as against that person, be deemed to be a confirmation of the lease.

(5) The foregoing provisions of this section do not affect prejudicially—

(*a*) any right of action or other right or remedy to which, but for those provisions or any enactment replaced by those provisions, the lessee named in an invalid lease would or might have been entitled under any covenant on the part of the grantor for title or quiet enjoyment contained therein or implied thereby; or

(*b*) any right of re-entry or other right or remedy to which, but for those provisions or any enactment replaced thereby, the grantor or other person for the time being entitled to the reversion expectant on the termination of the lease, would or might have been entitled by reason of any breach of the covenants, conditions or provisions contained in the lease and binding on the lessee.

(6) Where a valid power of leasing is vested in or may be exercised by a person who grants a lease which, by reason of the determination of the interest of the grantor or otherwise, cannot have effect and continuance according to the terms thereof independently of the power, the lease shall for the purposes of this section be deemed to have been granted in the intended exercise of the power although the power is not referred to in the lease.

(7) This section does not apply to a lease of land held on charitable, ecclesiastical or public trusts.

(8) This section takes effect without prejudice to the provision in this Act for the grant of leases in the name and on behalf of the estate owner of the land affected.

Enlargement of residue of long terms into fee simple estates.

153.—(1) Where a residue unexpired of not less than two hundred years of a term, which, as originally created, was for not less than three hundred years, is subsisting in land, whether being the whole land originally comprised in the term, or part only thereof,—

(*a*) without any trust or right of redemption affecting the term in favour of the freeholder, or other

person entitled in reversion expectant on the term; and

(*b*) without any rent, or with merely a peppercorn rent or other rent having no money value, incident to the reversion, or having had a rent, not being merely a peppercorn rent or other rent having no money value, originally so incident, which subsequently has been released or has become barred by lapse of time, or has in any other way ceased to be payable;

the term may be enlarged into a fee simple in the manner, and subject to the restrictions in this section provided.

(2) This section applies to and includes every such term as aforesaid whenever created, whether or not having the freehold as the immediate reversion thereon; but does not apply to—

(i) Any term liable to be determined by re-entry for condition broken; or

(ii) Any term created by subdemise out of a superior term, itself incapable of being enlarged into fee simple.

(3) This section extends to mortgage terms, where the right of redemption is barred.

(4) 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 this section, 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.

(5) Where a rent incident to a reversion expectant on a term to which this section applies is deemed to have ceased to be payable for the purposes aforesaid, no claim for such rent or for any arrears thereof shall be capable of being enforced.

(6) Each of the following persons, namely—

(i) Any person beneficially entitled in right of the term, whether subject to any incumbrance or not, to possession of any land comprised in the term, and, in the case of a married woman

without the concurrence of her husband, whether or not she is entitled for her separate use or as her separate property, or is subject to a restraint on anticipation;

(ii) Any person being in receipt of income as trustee, in right of the term, or having the term vested in him in trust for sale, whether subject to any incumbrance or not;

(iii) Any person in whom, as personal representative of any deceased person, the term is vested, whether subject to any incumbrance or not;

shall, so far as regards the land to which he is entitled, or in which he is interested in right of the term, in any such character as aforesaid, have power by deed to declare to the effect that, from and after the execution of the deed, the term shall be enlarged into a fee simple.

(7) Thereupon, by virtue of the deed and of this Act, the term shall become and be enlarged accordingly, and the person in whom the term was previously vested shall acquire and have in the land a fee simple instead of the term.

(8) The estate in fee simple so acquired by enlargement shall be subject to all the same trusts, powers, executory limitations over, rights, and equities, and to all the same covenants and provisions relating to user and enjoyment, and to all the same obligations of every kind, as the term would have been subject to if it had not been so enlarged.

(9) But where—

(*a*) any land so held for the residue of a term has been settled in trust by reference to other land, being freehold land, so as to go along with that other land, or, in the case of settlements coming into operation before the commencement of this Act, so as to go along with that other land as far as the law permits; and

(*b*) at the time of enlargement, the ultimate beneficial interest in the term, whether subject

to any subsisting particular estate or not, has not become absolutely and indefeasibly vested in any person, free from charges or powers of charging created by a settlement;

the estate in fee simple acquired as aforesaid shall, without prejudice to any conveyance for value previously made by a person having a contingent or defeasible interest in the term, be liable to be, and shall be, conveyed by means of a subsidiary vesting instrument and settled in like manner as the other land, being freehold land, aforesaid, and until so conveyed and settled shall devolve beneficially as if it had been so conveyed and settled.

(10) The estate in fee simple so acquired shall, whether the term was originally created without impeachment of waste or not, include the fee simple in all mines and minerals which at the time of enlargement have not been severed in right or in fact, or have not been severed or reserved by an inclosure Act or award.

Application of Part V. to existing leases.

154. This Part of this Act, except where otherwise expressly provided, applies to leases created before or after the commencement of this Act, and "lease" includes an under-lease or other tenancy.

PART VI.

POWERS.

Release of powers simply collateral.

155. A person to whom any power, whether coupled with an interest or not, is given may by deed release, or contract not to exercise, the power.

Disclaimer of power.

156.—(1) A person to whom any power, whether coupled with an interest or not, is given may by deed disclaim the power, and, after disclaimer, shall not be capable of exercising or joining in the exercise of the power.

(2) On such disclaimer, the power may be exercised by the other person or persons or the survivor or survivors of the other persons, to whom the power is given, unless the contrary is expressed in the instrument creating the power.

Protection of purchasers claiming under certain void appointments.

157.—(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 or number 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 made 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 only to dealings effected after the commencement of this Act.

Validation of appointments where objects are excluded or take illusory shares.

158.—(1) No appointment made in exercise of any power to appoint any property among two or more objects shall be invalid on the ground that—

(*a*) an unsubstantial, illusory, or nominal share only is appointed to or left unappointed to devolve upon any one or more of the objects of the power; or

(*b*) any object of the power is thereby altogether excluded;

but every such appointment shall be valid notwithstanding that any one or more of the objects is not thereby, or in default of appointment, to take any share in the property.

(2) This section does not affect any provision in the instrument creating the power which declares the amount of any share from which any object of the power is not to be excluded.

(3) This section applies to appointments made before or after the commencement of this Act.

Execution of powers not testamentary.

159.—(1) A deed executed in the presence of and attested by two or more witnesses (in the manner in which deeds are ordinarily executed and attested) is so far as respects the execution and attestation thereof, a valid execution of a power of appointment by deed or by any instrument in writing, not testamentary, notwithstanding that it is expressly required that a deed or instrument in writing, made in exercise of the power, is to be executed or attested with some additional or other form of execution or attestation or solemnity.

(2) This section does not operate to defeat any direction in the instrument creating the power that—

(*a*) the consent of any particular person is to be necessary to a valid execution;

(*b*) in order to give validity to any appointment, any act is to be performed having no relation to the mode of executing and attesting the instrument.

(3) This section does not prevent the donee of a power from executing it in accordance with the power by writing, or otherwise than by an instrument executed and attested as a deed; and where a power is so executed this section does not apply.

(4) This section applies to appointments by deed made after the thirteenth day of August, eighteen hundred and fifty-nine.

Application of Part VI. to existing powers.

160. This Part of this Act applies to powers created or arising either before or after the commencement of this Act.

PART VII.

PERPETUITIES AND ACCUMULATIONS.

Perpetuities.

Abolition of the double possibility rule.

161.—(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 an unborn 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.

Restrictions on the perpetuity rule.

162.—(1) For removing doubts, it is hereby declared that the rule of law relating to perpetuities does not apply and shall be deemed never 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 rentcharge as an indemnity against another rentcharge; 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—

(i) winning, working, inspecting, measuring, converting, manufacturing, carrying away, and disposing of mines and minerals;

(ii) inspecting, grubbing up, felling and carrying away timber and other trees, and the tops and lops thereof;

(iii) executing repairs, alterations, or additions to any adjoining land, or the buildings and erections thereon;

(iv) 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.

163.—(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.

Accumulations.

General restrictions on accumulation of income.

164.—(1) No person may by any instrument or otherwise settle or dispose of any property in such manner that the income thereof shall, save as hereinafter mentioned, be wholly or partially accumulated for any longer period than one of the following, namely :—

(*a*) the life of the grantor or settlor; or

(*b*) a term of twenty-one years from the death of the grantor, settlor or testator; or

(*c*) the duration of the minority or respective minorities of any person or persons living or en ventre sa mere at the death of the grantor, settlor or testator; or

(*d*) the duration of the minority or respective minorities only of any person or persons who under the limitations of the instrument directing the accumulations would, for the time being, if of full age, be entitled to the income directed to be accumulated.

In every case where any accumulation is directed otherwise than as aforesaid, the direction shall (save as hereinafter mentioned) be void; and the income of the property directed to be accumulated shall, so long as the same is directed to be accumulated contrary to this section, go to and be received by the person or persons who would have been entitled thereto if such accumulation had not been directed.

(2) This section does not extend to any provision—

(i) for payment of the debts of any grantor, settlor, testator or other person;

(ii) for raising portions for—

(*a*) any child, children or remoter issue of any grantor, settlor or testator; or

(*b*) any child, children or remoter issue of a person taking any interest under any settlement or other disposition directing the accumulations or to whom any interest is thereby limited;

(iii) respecting the accumulation of the produce of timber or wood;

and accordingly such provisions may be made as if no statutory restrictions on accumulation of income had been imposed.

(3) The restrictions imposed by this section apply to instruments made on or after the twenty-eighth day of July, eighteen hundred, but in the case of wills only where the testator was living and of testamentary capacity after the end of one year from that date.

Qualification of restrictions on accumulation.

165. 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 taken into account in determining the periods for which accumulations are permitted to be made by the last preceding section, and accordingly an express trust for accumulation for any other permitted period shall not be deemed to have been invalidated or become invalid, by reason of accumulations also having been made as aforesaid during such minority.

Restriction on accumulation for the purchase of land.

166.—(1) No person may settle or dispose of any property in such manner that the income thereof shall be wholly or partially accumulated for the purchase of land only, for any longer period than the duration of the minority or respective minorities of any person or persons who, under the limitations of the instrument directing the accumulation, would for the time being, if of full age, be entitled to the income so directed to be accumulated.

(2) This section does not, nor do the enactments which it replaces, apply to accumulations to be held as capital money for the purposes of the Settled Land Act, 1925, or the enactments replaced by that Act, whether or not the accumulations are primarily liable to be laid out in the purchase of land.

(3) This section applies to settlements and dispositions made after the twenty-seventh day of June eighteen hundred and ninety-two.

PART VIII.

MARRIED WOMEN AND LUNATICS.

Married Women.

Abolition of acknowledgments

167.—(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 prescribed by any such Act as amended by any subsequent enactment, 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. by married women. 3 & 4 Will. 4. c. 74. 20 & 21 Vict. c. 5.

(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.

168.—(1) A married woman has power by deed to disclaim any estate or interest in land with or without the concurrence of her husband as the case may require. Disclaimer by married woman.

(2) A husband is not a necessary party to any disclaimer by his wife where—

(*a*) the wife, if there were no disclaimer, would have been entitled to the property for her separate use or as her separate property; or

(*b*) the property consists of a trust estate.

169. Where a married woman is restrained from anticipation or from alienation in respect of any property or any interest in property belonging to her, or is by law unable to dispose of or bind such property or her interest therein, including a reversionary interest arising under her marriage settlement, the court may, if it thinks fit, where it appears to the court to be for her benefit, by judgment or order, with her consent, bind her interest in such property. Power for court to bind interest of married woman.

Acquisitions and dispositions of trust estates by married women.

170.—(1) A married woman is able to acquire as well from her husband as from any other person, and hold, any interest in property real or personal either solely or jointly with any other person (whether or not including her husband) as a trustee or personal representative, in like manner as if she were a feme sole; and no interest in such property shall vest or be deemed to have vested in the husband by reason only of the acquisition by his wife.

(2) A married woman is able, without her husband, to dispose of, or to join in disposing of, any interest in real or personal property held by her solely or jointly with any other person (whether or not including her husband) as trustee or personal representative, in like manner as if she were a feme sole.

(3) This section applies to a woman married after the thirty-first day of December, eighteen hundred and eighty-two, and to a woman married before the first day of January, eighteen hundred and eighty-three, who became a trustee or personal representative on or after that date.

(4) This section operates to render valid and confirm all such acquisitions and dispositions made after the thirty-first day of December, eighteen hundred and eighty-two, whether before or after the commencement of this Act, but where any title or right has been acquired through or with the concurrence of the husband before the first day of January, nineteen hundred and eight, that title or right shall prevail over any title or right which would otherwise be rendered valid by this section or any enactment which it replaces.

(5) This section does not prejudicially affect any beneficial interest of the husband of any such woman.

Lunatics.

Power for court to settle the beneficial interests of a lunatic or defective.

171.—(1) The court may direct a settlement to be made of the property of a lunatic 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 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 instrument, conveyance (including a disentailing assurance) or other instrument, and to do any other act or thing which may be required for giving effect to 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) Any person who under the Administration of Estates Act, 1925, has, or if that Act, or any enactment which it replaces, had not been passed would have had, a spes successionis (whether under any testamentary disposition which is known to exist or in the event of the intestacy of the lunatic or defective) or an interest in the property of the lunatic or defective or in any

15 Geo. 5. c. 23.

part thereof, as well as the committee or receiver and any other person who may be authorised by rules made under this section, shall have power to apply to the court for an order under this section.

(5) 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 insurance, 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, or 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.

(6) 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.

(7) 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.

(8) For the purposes of this section, "the court" means the Judge in Lunacy, or, in such cases as may be prescribed by rules of court, the High Court.

(9) Rules in lunacy or, as respects cases within the jurisdiction of the High Court, 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 thereof in court, for prescribing what notices, if any, of the proceedings are to be served, for dispensing with such notices and, when necessary, for making representation orders.

PART IX.

VOIDABLE DISPOSITIONS.

Voluntary conveyances to defraud creditors voidable.

172.—(1) Save as provided in this section, every conveyance of property, made whether before or after the commencement of this Act, with intent to defraud creditors, shall be voidable, at the instance of any person thereby prejudiced.

(2) This section does not affect the operation of a disentailing assurance, or the law of bankruptcy for the time being in force.

(3) This section does not extend to any estate or interest in property conveyed for valuable consideration and in good faith or upon good consideration

and in good faith to any person not having, at the time of the conveyance, notice of the intent to defraud creditors.

Voluntary disposition of land how far voidable as against purchasers.

173.—(1) Every voluntary disposition of land made with intent to defraud a subsequent purchaser is voidable at the instance of that purchaser.

(2) For the purposes of this section, no voluntary disposition, whenever made, shall be deemed to have been made with intent to defraud by reason only that a subsequent conveyance for valuable consideration was made, if such subsequent conveyance was made after the twenty-eighth day of June, eighteen hundred and ninety-three.

Acquisitions of reversions at an under value.

174.—(1) No acquisition made in good faith, without fraud or unfair dealing, of any reversionary interest in real or personal property, for money or money's worth, shall be liable to be opened or set aside merely on the ground of under value.

In this subsection "reversionary interest" includes an expectancy or possibility.

(2) This section does not affect the jurisdiction of the court to set aside or modify unconscionable bargains.

PART X.

WILLS.

Contingent and future testamentary gifts to carry the intermediate income.

175.—(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 statutory provisions relating to accumulations, 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 for tenant in tail in possession

176.—(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— to dispose of property by specific devise or bequest.

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

(*b*) of money (including the proceeds of property directed to be sold) subject to be invested in the purchase of property, 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 been tenant in fee-simple or absolute owner thereof for an equitable interest 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 does 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 "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.

177.—(1) 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. Wills in contemplation of marriage. 7 Will. 4. & 1 Vict. c. 26.

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

Power for persons having no issue to dispose of real estate by will.

178. Section three of the Wills Act, 1837, shall (without prejudice to the rights and interests of a personal representative) authorise and be deemed always to have authorised any person to dispose of real property or chattels real by will notwithstanding that by reason of illegitimacy or otherwise he did not leave an heir or next of kin surviving him.

Prescribed forms for reference in wills.

179. The Lord Chancellor may from time to time prescribe and publish forms to which a testator may refer in his will, and give directions as to the manner in which they may be referred to, but, unless so referred to, such forms shall not be deemed to be incorporated in a will.

PART XI.

MISCELLANEOUS.

Miscellaneous.

Provisions as to corporations.

180.—(1) 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 (including the Crown), 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.

(2) 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.

(3) Any contract or other transaction expressed or purported to be made with a corporation sole, or any appointment of a corporation sole as a custodian or other trustee or as a personal representative, at a time

(either after or before the commencement of this Act) when there was 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 on the appointment of a successor shall be capable of being enforced, accepted, disclaimed or renounced by him.

Dissolution of a corporation.

181. 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 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.

Protection of solicitor and trustees adopting Act.

182.—(1) The powers given by this Act to any person, and the covenants, provisions, stipulations, and words which under this Act are to be deemed to be included or implied in any instrument, or are by this Act made applicable to any contract for sale or other transaction, are and shall be deemed in law proper powers, covenants, provisions, stipulations, and words, to be given by or to be contained in any such instrument, or to be adopted in connexion with, or applied to, any such contract or transaction, and a solicitor shall not be deemed guilty of neglect or breach of duty, or become in any way liable, by reason of his omitting, in good faith, in any such instrument, or in connexion with any such contract or transaction, to negative the giving, inclusion, implication, or application of any of those powers, covenants, provisions, stipulations, or words, or to insert or apply any others in place thereof, in any case where the provisions of this Act would allow of his doing so.

(2) But, save as expressly provided by this Act, nothing in this Act shall be taken to imply that the insertion in any such instrument, or the adoption in connexion with, or the application to, any contract or transaction, of any further or other powers, covenants, provisions, stipulations, or words is improper.

(3) Where the solicitor is acting for trustees, executors, or other persons in a fiduciary position, those persons shall also be protected in like manner.

(4) Where such persons are acting without a solicitor, they shall also be protected in like manner.

Fraudulent concealment of documents and falsification of pedigrees.

183.—(1) Any person disposing of property or any interest therein for money or money's worth to a purchaser, or the solicitor or other agent of such person, who—

(*a*) conceals from the purchaser any instrument or incumbrance material to the title; or

(*b*) falsifies any pedigree upon which the title may depend in order to induce the purchaser to accept the title offered or produced;

with intent in any of such cases to defraud, is guilty of a misdemeanour punishable by fine, or by imprisonment for a term not exceeding two years, or by both.

(2) Any such person or his solicitor or agent is also liable to an action for damages by the purchaser or the persons deriving title under him for any loss sustained by reason of—

(*a*) the concealment of the instrument or incumbrance; or

(*b*) any claim made by a person under such pedigree whose right was concealed by such falsification as aforesaid.

(3) In estimating damages, where the property or any interest therein is recovered from the purchaser or the persons deriving title under him, regard shall be had to any expenditure by him or them in improvements of any land.

(4) No prosecution for any offence under this section shall be commenced without the leave of the Attorney-General.

(5) Before leave to prosecute is granted there shall be given to the person intended to be prosecuted such notice of the application for leave to prosecute as the Attorney-General may direct.

Presumption of survivorship in regard to claims to property.

184. 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.

Merger.

185. There is no merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Rights of pre-emption capable of release.

186. All statutory and 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 as equitable interests only.

Legal easements.

187.—(1) 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.

(2) Nothing in this Act affects the right of a person to acquire, hold or exercise an easement, right or privilege over or in relation to land for a legal estate in common with any other person, or the power of creating or conveying such an easement right or privilege.

Power to direct division of chattels.

188. Where any chattels belong to persons in undivided shares, the persons interested in a moiety or upwards may apply to the 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.

Indemnities against rents.

189.—(1) A power of distress given by way of indemnity against a rent or any part thereof payable in respect of any land, or against the breach of any covenant or condition in relation to 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.

(2) The benefit of all covenants and powers given by way of indemnity against a rent or any part thereof payable in respect of land, or against the breach of any covenant or condition in relation to land, is and shall be deemed always to have been annexed to the land to which the indemnity is intended to relate, 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.

Redemption and Apportionment of Rents, &c.

Equitable apportionment of rents and remedies for non-payment or breach of covenant.

190.—(1) Where in a conveyance for valuable consideration, other than a mortgage, of part of land which is affected by a rentcharge, such rentcharge or a part thereof is, without the consent of the owner thereof, expressed to be—

(*a*) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained or other land; or

(*b*) charged exclusively on the land retained or any part thereof in exoneration of the land conveyed or other land; or

(*c*) apportioned between the land conveyed or any part thereof, and the land retained by the grantor or any part thereof;

then, without prejudice to the rights of the owner of the rentcharge, such charge or apportionment shall be binding as between the grantor and the grantee under the conveyance and their respective successors in title.

(2) Where—

(*a*) any default is made in payment of the whole or part of a rentcharge by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or

(*b*) any breach occurs of any of the covenants (other than in the case of an apportionment the covenant to pay the entire rentcharge) or conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land retained or conveyed, as the case may be;

the owner for the time being of any other land affected by the entire rentcharge who—

(i) pays or is required to pay the whole or part of the rentcharge which ought to have been paid by the defaulter aforesaid; or

(ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the

income of the same land until, by means of such distress and receipt of income or otherwise the whole or part of the rentcharge (charged or apportioned as aforesaid) so unpaid and all costs, damages and expenses incurred by reason of the non-payment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

(3) Where in a conveyance for valuable consideration, other than a mortgage, of part of land comprised in a lease, for the residue of the term or interest created by the lease, the rent reserved by such lease or a part thereof is, without the consent of the lessor, expressed to be—

(*a*) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained by the assignor or other land; or

(*b*) charged exclusively on the land retained by the assignor or any part thereof in exoneration of the land conveyed or other land; or

(*c*) apportioned between the land conveyed or any part thereof and the land retained by the assignor or any part thereof;

then, without prejudice to the rights of the lessor, such charge or apportionment shall be binding as between the assignor and the assignee under the conveyance and their respective successors in title.

(4) Where—

(*a*) any default is made in payment of the whole or part of a rent by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or

(*b*) any breach occurs of any of the lessee's covenants (other than in the case of an apportionment the covenant to pay the entire rent) or conditions contained in the lease, so far as the same relate to the land retained or conveyed, as the case may be;

the lessee for the time being of any other land comprised in the lease, in whom, as respects that land, the residue of the term or interest created by the lease is vested, who—

(i) pays or is required to pay the whole or part of the rent which ought to have been paid by the defaulter aforesaid; or

(ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land comprised in the lease in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until (so long as the term or interest created by the lease is subsisting) by means of such distress and receipt of income or otherwise, the whole or part of the rent (charged or apportioned as aforesaid) so unpaid and all costs, damages and expenses incurred by reason of the non-payment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

(5) The remedies conferred by this section take effect so far only as they might have been conferred by the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, but a trustee, personal representative, mortgagee or other person in a fiduciary position has, and shall be deemed always to have had, power to confer the same or like remedies.

(6) This section applies only if and so far as a contrary intention is not expressed in the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, and takes effect subject to the terms of that conveyance and to the provisions therein contained.

(7) The remedies conferred by this section apply only where the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned is made after the commencement of this Act, and do not apply where the rent is charged exclusively as aforesaid or legally apportioned with the consent of the owner or lessor.

(8) The rule of law relating to perpetuities does not affect the powers or remedies conferred by this section or any like powers or remedies expressly conferred, before or after the commencement of this Act, by an instrument.

Redemption and apportionment of rents.

191.—(1) Where there is a rent being either—

(*a*) a quit rent, chief rent or other annual or periodical sum issuing out of land; or

(*b*) 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; or

(*c*) a compensation rentcharge created as the consideration for the extinguishment of manorial incidents;

the Minister shall at any time, on the requisition of the owner of the land or of any person interested therein, certify the amount of money in consideration whereof the rent may be redeemed.

Where the rent is not perpetual, the Minister may authorise the purchase of a Government annuity of an amount equal to the rent, payable during the residue of the period for which the rent would have been payable, in such names as he may think fit, and give directions as to the payment of the annuity, and the amount required to purchase that annuity shall be the redemption money.

(2) Where the rent is perpetual and 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) purchase sufficient of such Government securities to yield annual dividends equal to the amount of the yearly rent redeemed.

(3) Where the person entitled to the rent is absolutely entitled thereto in fee simple in possession, or is empowered to dispose thereof absolutely, or to give an absolute discharge for the capital value thereof, the owner of the land, or any person interested therein, may, after serving one month's notice on the person entitled to the rent, pay or tender to that person the amount certified by the Minister.

(4) 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 or the Government annuity into court, to an account entitled in the matter of the rent and of the land affected.

(5) On proof to the Minister that such payment (whether into court or otherwise) or tender has been made, he shall certify that the rent is redeemed under this Act; and that certificate shall be final and conclusive, and the land shall be thereby absolutely freed and discharged from the rent.

(6) Any person claiming to be interested in the annuity or 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 of the annuity or of the fund in court or any part thereof, or of the income thereof to the persons entitled to give a receipt therefor, and it shall not be necessary to serve the owner of the land or the Minister with notice of the proceedings.

(7) 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 a charge on 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 this section, and, on such redemption, the part of the land to which the redemption applies shall be discharged from the entire rent.

(8) Every requisition under this section shall be in writing; and every certificate under this section may be in writing, sealed with the seal of the Minister.

(9) Rules may be made by the Minister for regulating proceedings to be taken under this section, and as to the manner in which costs are to be borne by the respective parties.

(10) All decisions of the Minister made under this section shall (subject only to such appeal to the court as may be prescribed by rules of court) be final.

(11) 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, and whether the rent was created before or after the commencement of this Act.

(12) This section does not apply to tithe rentcharge or a charge or other payment redeemable under the Tithe Acts, 1836 to 1918, or to a rent reserved by a lease or tenancy.

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

192. An order of apportionment of a charge on land by way of annuity for redemption of tithe rentcharge 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 any person interested 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.

Commons and Waste Lands.

Rights of the public over commons and waste lands.

193.—(1) 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, regulation or order made thereunder or under any other statutory authority; 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 from 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—

(i) to any land over which the commonable rights are extinguished under any statutory provision;

(ii) 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 may direct.

(4) Any person who, without lawful authority, draws or drives upon any land to which this section applies any carriage, cart, caravan, truck, or other vehicle, or camps or lights any fire thereon, or who fails 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.

(6) This section does not apply to any common or manorial waste which is for the time being held for Naval, Military or Air Force purposes and in respect of which rights of common have been extinguished or cannot be exercised.

Restrictions on inclosure of commons.

194.—(1) 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.

(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 applies to any land which at the commencement of this Act is subject to rights of common:

Provided that this section shall cease to apply—

(*a*) to any land over which the rights of common are extinguished under any statutory provision;

(*b*) 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 does 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.

Judgments, &c. affecting Land.

Equitable charges in right of judgment debt, &c.

195.—(1) Subject as hereinafter mentioned a judgment entered up in the Supreme Court (whether before or after the commencement of this Act) against any person (in this section called a "judgment debtor") shall operate as an equitable charge upon every estate or interest (whether legal or equitable) in all land to or over which the judgment debtor at the date of entry or at any time thereafter is or becomes—

(*a*) beneficially entitled; or

(*b*) entitled to exercise a power of disposition for his own benefit without the assent of any other person;

and the judgment shall bind—

(i) the judgment debtor; and

(ii) all persons deriving title under him subsequently to the entry of the judgment; and

(iii) all persons capable of being bound by a disposition by the judgment debtor made after the entry of the judgment, including the issue of his body and all other persons, if any, whom he

might, without the assent of another person, have barred from any remainder, reversion or other interest, in the land.

(2) Every judgment creditor shall have the same remedies against the estate or interest in the land so charged or any part thereof as he would have been entitled to if the judgment debtor had power to charge the same, and had by writing, under his hand, agreed to charge the same, with the amount of the judgment debt and interest thereon.

(3) Provided that—

(i) A judgment, whether obtained (on behalf of the Crown or otherwise) before or after the commencement of this Act, shall not operate as a charge on any interest in land or on the unpaid purchase money for any land unless or until a writ or order, for the purpose of enforcing it, is registered in the register of writs and orders at the Land Registry;

(ii) No judgment creditor shall be entitled to take proceedings to obtain the benefit of his charge until after the expiration of one year from the time of entering up the judgment;

(iii) No such charge shall operate to give the judgment creditor any preference, in case of the bankruptcy of the judgment debtor, unless the judgment has been entered up one year at least before the bankruptcy;

(iv) A judgment against a mortgagee, who is paid off before or at the time of a conveyance of an estate or interest in land to a purchaser, shall not create a charge upon the estate or interest in the land vested in the purchaser by such conveyance.

(4) A recognisance, on behalf of the Crown or otherwise, whether entered into before or after the commencement of this Act, and an inquisition finding a debt due to the Crown, and any obligation or specialty made to or in favour of the Crown, whatever may have been its date, shall not operate as a charge on any interest in land, or on the unpaid purchase money for any land, unless or until a writ or order, for the purpose of enforcing it, is registered in the register of writs and orders at the Land Registry.

(5) In this section "judgment" includes any decree, order, or rule having the effect of a judgment.

Notices.

Regulations respecting notices.

196.—(1) Any notice required or authorised to be served or given by this Act shall be in writing.

(2) Any notice required or authorised by this Act to be served on a lessee or mortgagor shall be sufficient, although only addressed to the lessee or mortgagor by that designation, without his name, or generally to the persons interested, without any name, and notwithstanding that any person to be affected by the notice is absent, under disability, unborn, or unascertained.

(3) Any notice required or authorised by this Act to be served shall be sufficiently served if it is left at the last-known place of abode or business in the United Kingdom of the lessee, lessor, mortgagee, mortgagor, or other person to be served, or, in case of a notice required or authorised to be served on a lessee or mortgagor, is affixed or left for him on the land or any house or building comprised in the lease or mortgage, or, in case of a mining lease, is left for the lessee at the office or counting-house of the mine.

(4) Any notice required or authorised by this Act to be served shall also be sufficiently served, if it is sent by post in a registered letter addressed to the lessee, lessor, mortgagee, mortgagor, or other person to be served, by name, at the aforesaid place of abode or business, office, or counting-house, and if that letter is not returned through the post-office undelivered; and that service shall be deemed to be made at the time at which the registered letter would in the ordinary course be delivered.

(5) The provisions of this section shall extend to notices required to be served by any instrument affecting property executed or coming into operation after the commencement of this Act unless a contrary intention appears.

(6) This section does not apply to notices served in proceedings in the court.

Notice of memorials registered in Middlesex and Yorkshire.

197.—(1) The registration in a local deeds registry of a memorial of any instrument transferring or creating a legal estate or charge by way of legal mortgage, shall be deemed to constitute actual notice of the transfer or creation of the legal estate or charge by way of legal

mortgage, to all persons and for all purposes whatsoever, as from the date of registration or other prescribed date, and so long as the registration continues in force.

(2) The registration of a memorial of an instrument not required to be registered does not operate to give notice of such instrument or of the contents thereof.

(3) This section operates without prejudice to the provisions of this Act respecting the making of further advances by a mortgagee, and only applies to land within the jurisdiction of the registry.

Registration under the Land Charges Act, 1925, to be notice.

198.—(1) The registration of any instrument or matter under the provisions of the Land Charges Act, 1925, or any enactment which it replaces, in any register kept at the land registry or elsewhere, shall be deemed to constitute actual notice of such instrument or matter, and of the fact of such registration, to all persons and for all purposes connected with the land affected, as from the date of registration or other prescribed date and so long as the registration continues in force.

(2) This section operates without prejudice to the provisions of this Act respecting the making of further advances by a mortgagee, and applies only to instruments and matters required or authorised to be registered under the Land Charges Act, 1925.

Restrictions on constructive notice.

199.—(1) A purchaser shall not be prejudicially affected by notice of—

(i) any instrument or matter capable of registration under the provisions of the Land Charges Act, 1925, or any enactment which it replaces, which is void or not enforceable as against him under that Act or enactment, by reason of the non-registration thereof;

(ii) any other instrument or matter or any fact or thing unless—

(*a*) it is within his own knowledge, or would have come to his knowledge if such inquiries and inspections had been made as ought reasonably to have been made by him; or

(*b*) in the same transaction with respect to which a question of notice to the purchaser arises, it has come to the knowledge of his counsel, as such, or of his solicitor or other agent, as such, or would have come to the knowledge of his solicitor or other agent, as

such, if such inquiries and inspections had been made as ought reasonably to have been made by the solicitor or other agent.

(2) Paragraph (ii) of the last subsection shall not exempt a purchaser from any liability under, or any obligation to perform or observe, any covenant, condition, provision, or restriction contained in any instrument under which his title is derived, mediately or immediately; and such liability or obligation may be enforced in the same manner and to the same extent as if that paragraph had not been enacted.

(3) A purchaser shall not by reason of anything in this section be affected by notice in any case where he would not have been so affected if this section had not been enacted.

(4) This section applies to purchases made either before or after the commencement of this Act.

Notice of restrictive covenants and easements.

200.—(1) Where land having a common title with other land is disposed of to a purchaser (other than a lessee or a mortgagee) who does not hold or obtain possession of the documents forming the common title, such purchaser, notwithstanding any stipulation to the contrary, may require that a memorandum giving notice of any provision contained in the disposition to him restrictive of user of, or giving rights over, any other land comprised in the common title, shall, where practicable, be written or indorsed on, or, where impracticable, be permanently annexed to some one document selected by the purchaser but retained in the possession or power of the person who makes the disposition, and being or forming part of the common title.

(2) The title of any person omitting to require an indorsement to be made or a memorandum to be annexed shall not, by reason only of this enactment, be prejudiced or affected by the omission.

(3) This section does not apply to dispositions of registered land.

(4) Nothing in this section affects the obligation to register a land charge in respect of—

(*a*) any restrictive covenant or agreement affecting freehold land; or

(*b*) any estate contract; or

(*c*) any equitable easement, liberty or privilege.

PART XII.

CONSTRUCTION, JURISDICTION, AND GENERAL PROVISIONS.

Provisions of Act to apply to incorporeal hereditaments.

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

(2) This Act does not affect the special restrictions imposed on dealings with advowsons by the Benefices Act, 1898, or any other statute or measure, 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 takes effect subject to the express provisions of this Act relating to undivided shares.

Provisions as to enfranchisement of copyholds, &c.

202. For giving effect to this Act, the enfranchisement of copyhold land, and the conversion into long terms of perpetually renewable leaseholds, and of leases for lives and of leases for years terminable with life or lives or on marriage, effected by the Law of Property Act, 1922, as amended by any subsequent enactment, shall be deemed to have been effected immediately before the commencement of this Act.

Payment into court, jurisdiction and procedure.

203.—(1) Payment of money into court effectually exonerates therefrom the person making the payment.

(2) Subject to any rules of court to the contrary—

(*a*) Every application to the court under this Act shall, save as otherwise expressly provided, be by summons at chambers;

(*b*) On an application by a purchaser notice shall be served in the first instance on the vendor;

(*c*) On an application by a vendor notice shall be served in the first instance on the purchaser;

(*d*) On any application notice shall be served on such persons, if any, as the court thinks fit.

(3) In this Act, unless the contrary intention appears, "the court" means the High Court, and also the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham, or the county court, where those courts respectively have jurisdiction.

(4) All matters within the jurisdiction of the High Court under this Act shall, save as otherwise expressly provided, and subject to the enactments for the time being in force with respect to the Supreme Court of Judicature, be assigned to the Chancery Division of the court.

(5) 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.

Orders of court conclusive.

204.—(1) An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, be invalidated on the ground of want of jurisdiction, or of want of any concurrence, consent, notice, or service, whether the purchaser has notice of any such want or not.

(2) This section has effect with respect to any lease, sale, or other act under the authority of the court, and purporting to be in pursuance of any statutory power notwithstanding any exception in such statute.

(3) This section applies to all orders made before or after the commencement of this Act.

General definitions.

205.—(1) In this Act unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

(i) "Bankruptcy" includes liquidation by arrangement; also in relation to a corporation means the winding up thereof;

(ii) "Conveyance" includes a mortgage, charge, 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; "convey" has a corresponding meaning; and "disposition" includes a conveyance and also a devise, bequest, or an appointment of property contained in a will; and "dispose of" has a corresponding meaning;

(iii) "Building purposes" include the erecting and improving of, and the adding to, and the repairing of buildings; and a "building lease" is a lease for building purposes or purposes connected therewith;

(iv) "Death duty" means estate duty, succession duty, legacy duty, and every other duty leviable or payable on a death;

(v) "Estate owner" means the owner of a legal estate, but an infant is not capable of being an estate owner;

(vi) "Gazette" means the London Gazette;

(vii) "Incumbrance" includes a legal or equitable mortgage and a trust for securing money, and a lien, and a charge of a portion, annuity, or other capital or annual sum; and "incumbrancer" has a meaning corresponding with that of incumbrance, and includes every person entitled to the benefit of an incumbrance, or to require payment or discharge thereof;

(viii) "Instrument" does not include a statute, unless the statute creates a settlement;

(ix) "Land" includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) 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; and "manor" includes a lordship, and reputed manor or lordship; and "hereditament" means any real property which on an intestacy occurring before the commencement of this Act might have devolved upon an heir;

(x) "Legal estates" mean the estates, interests and charges, in or over land (subsisting or created at law) which are by this Act authorised to subsist or to be created as legal estates; "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 as a legal estate " means such as could validly subsist or be created as a legal estate under this Act;

(xi) " Legal powers " include 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 in or over land under which equitable interests or powers only can be transferred or created;

(xii) " Limitation Acts " mean the Real Property Limitation Acts, 1833, 1837 and 1874, and " limitation " includes a trust;

(xiii) " Lunatic " includes a lunatic whether so found or not, and, in relation to a lunatic not so found, " committee " includes a person on whom the powers of a committee are conferred under section one of the Lunacy Act, 1908; " 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;

(xiv) A " mining lease " means a lease for mining purposes, that is, the searching for, winning, working, getting, making merchantable, carrying away, or disposing of mines and minerals, or purposes connected therewith, and includes a grant or licence for mining purposes;

(xv) " Minister " means the Minister of Agriculture and Fisheries ";

(xvi) " Mortgage " includes any charge or lien on any property for securing money or money's worth; " legal mortgage " means a mortgage by demise or subdemise or a charge by way of legal mortgage and " legal mortgagee " has a corresponding meaning; " mortgage money " means money or money's worth secured by a mortgage; " mortgagor " includes any person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to his estate interest or right in the mortgaged property; " mortgagee " includes a chargee by way of legal mortgage and any person from time

to time deriving title under the original mortgagee; and "mortgagee in possession" is, for the purposes of this Act, a mortgagee who, in right of the mortgage, has entered into and is in possession of the mortgaged property; and "right of redemption" includes an option to repurchase only if the option in effect creates a right of redemption;

(xvii) "Notice" includes constructive notice;

(xviii) "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;

(xix) "Possession" includes receipt of rents and profits or the right to receive the same, if any; and "income" includes rents and profits;

(xx) "Property" includes any thing in action, and any interest in real or personal property;

(xxi) "Purchaser" means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property except that in Part I. of this Act and elsewhere where so expressly provided "purchaser" only means a person who acquires an interest in or charge on property for money or money's worth; and in reference to a legal estate includes a chargee by way of legal mortgage; and where the context so requires "purchaser" includes an intending purchaser; "purchase" has a meaning corresponding with that of "purchaser"; and "valuable consideration" includes marriage but does not include a nominal consideration in money;

(xxii) "Registered land" has the same meaning as in the Land Registration Act, 1925, and "Land Registrar" means the Chief Land Registrar under that Act;

(xxiii) "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, reserved or issuing out of or charged upon land, but does not include mortgage interest; "rentcharge" includes a fee farm rent; "fine" includes a premium or foregift and any payment, consideration, or benefit in the nature of a fine, premium or foregift; "lessor" includes an underlessor and a person deriving title under a lessor or underlessor; and "lessee" includes an underlessee and a person deriving title under a lessee or under-lessee, and "lease" includes an underlease or other tenancy;

(xxiv) "Sale" includes an extinguishment of manorial incidents, but in other respects means a sale properly so called;

(xxv) "Securities" include stocks, funds and shares;

(xxvi) "Tenant for life," "statutory owner," "settled land," "settlement," "vesting deed," "subsidiary vesting deed," "vesting order," "vesting instrument," "trust instrument," "capital money," and "trustees of the settlement" have the same meanings as in the Settled Land Act, 1925;

(xxvii) "Term of years absolute" means a term of years (taking effect either in possession or in reversion whether or not at a rent) 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, nor, if created after the commencement of this Act, a term of years which is not expressed to take effect in possession within twenty-one years after the creation thereof where required by this Act to take effect within that period; 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;

(xxviii) "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.

(xxix) "Trust for sale," in relation to land, means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and 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 "power to postpone a sale" means power to postpone in the exercise of a discretion;

(xxx) "United Kingdom" means Great Britain and Northern Ireland;

(xxxi) "Will" includes codicil.

(2) Where an equitable interest in or power over property arises by statute or operation of law, references to the creation of an interest or power include references to any interest or power so arising.

(3) References to registration under the Land Charges Act, 1925, apply to any registration made under any other statute which is by the Land Charges Act, 1925, to have effect as if the registration had been made under that Act.

Forms of instruments and examples of abstracts.

206.—(1) Instruments in the form of, and using the expressions in the forms given in the Fifth Schedule to this Act, or in the like form or using expressions to the like effect, shall, in regard to form and expression be sufficient.

(2) Examples of abstracts of title framed in accordance with the enactments which will take effect at the commencement of this Act are contained in the Sixth Schedule to this Act.

Repeals as respects England and Wales.

207. The Acts mentioned in the Seventh Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889:— 52 & 53 Vict. c. 63.

(*a*) Nothing in this repeal shall affect the validity or legality of any dealing in property or other transaction completed before the commence-

ment of this Act, or any title or right acquired or appointment made before such commencement, but, subject as aforesaid, this Act shall, except where otherwise expressly provided, apply to and in respect of instruments whether made or coming into operation before or after such commencement:

(*b*) Nothing in this repeal shall affect any rules, orders, or other instruments made under any enactment so repealed, but all such rules, orders and instruments shall continue in force as if made under the corresponding enactment in this Act:

(*c*) References in any document to any enactment repealed by this Act shall be construed as references to this Act or to the corresponding enactment in this Act.

Application to the Crown.

208.—(1) Nothing in this Act shall be construed as rendering any property of the Crown subject to distress, or liable to be taken or disposed of by means of any distress.

(2) This Act shall not in any manner (save as otherwise expressly provided and except so far as it relates to undivided shares, joint ownership, leases for lives or leases for years terminable with life or marriage) affect or alter the descent, devolution or tenure or the nature of the estates and interests of or in any land for the time being vested in His Majesty either in right of the Crown or of the Duchy of Lancaster or of or in any land for the time being belonging to the Duchy of Cornwall and held in right or in respect of the said Duchy, but so nevertheless that, after the commencement of this Act, no estates, interests or charges in or over any such lands as aforesaid shall be conveyed or created, except such estates, interests or charges as are capable under this Act of subsisting or of being conveyed or created.

(3) Subject as aforesaid the provisions of this Act bind the Crown.

Short title, commencement, extent.

209.—(1) This Act may be cited as the Law of Property Act, 1925.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.

(3) This Act extends to England and Wales only.

SCHEDULES.

FIRST SCHEDULE.

Section 39.

TRANSITIONAL PROVISIONS.

PART I.

CONVERSION OF CERTAIN EXISTING LEGAL ESTATES INTO EQUITABLE INTERESTS.

All estates, interests and charges in or over land, including fees determinable whether by limitation or condition, which immediately before the commencement of this Act were estates, interests or charges, subsisting at law, or capable of taking effect as such, but which by virtue of Part I. of this Act are not capable of taking effect as legal estates, shall as from the commencement of this Act be converted into equitable interests, and shall not fail by reason of being so converted into equitable interests either in the land or in the proceeds of sale thereof, nor shall the priority of any such estate, charge or interest over other equitable interests be affected.

PART II.

VESTING OF LEGAL ESTATES.

1. Where the purposes of a term of years, created or limited out of leasehold land, are satisfied at the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly; but where the term was vested in the owner of the reversion, the merger and cesser shall take effect without prejudice to any protection which would have been afforded to the owner for the time being of that reversion had the term remained subsisting.

Where the purposes are satisfied only as respects part of the land comprised in a term, this provision has effect as if a separate term had been created in regard to that part of the land.

2. Where immediately after the commencement of this Act any owner of a legal estate is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any other legal estate in the same land to be surrendered, released or conveyed to him so as to merge or be extinguished, the last-mentioned estate shall by virtue of this Part of this Schedule be extinguished, but without prejudice to any protection which would have been afforded to him had that estate remained subsisting.

1ST SCH. —*cont.*

3. Where immediately after the commencement of this Act any person is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any legal estate (not vested in trustees for sale) to be conveyed to or otherwise vested in him, such legal estate shall, by virtue of this Part of this Schedule, vest in manner hereinafter provided.

This paragraph 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, or who, immediately after such commencement becomes entitled to enfranchised land.

4. Any person who, immediately after the commencement of this Act, is entitled to an equitable interest capable of subsisting as a legal estate which has priority over any legal estate in the same land, shall be deemed to be entitled for the foregoing purposes to require a legal estate to be vested in him for an interest of a like nature not exceeding in extent or duration the equitable interest:

Provided that this paragraph shall not—

(*a*) apply where the equitable interest is capable of being over-reached by virtue of a subsisting trust for sale or a settlement;

(*b*) operate to prevent such person from acquiring any other legal estate under this Part of this Schedule to which he may be entitled.

5. For the purposes of this Part of this Schedule, a tenant for life, statutory owner or personal representative, shall be deemed to be entitled to require to be vested in him any legal estate n settled land (whether or not vested in the Crown) which he is, by the Settled Land Act, 1925, given power to convey.

6. Under the provisions of this Part of this Schedule, the legal estate affected (namely, any estate which a person is entitled to require to be vested in him as aforesaid) shall vest as follows:—

(*a*) Where at the commencement of this Act land is subject to a mortgage (not being an equitable charge unsecured by any estate), the legal estate affected shall vest in accordance with the provisions relating to mortgages contained in this Schedule;

(*b*) Where the land is at the commencement or by virtue of this Act or any Act coming into operation at the same time subject or is by virtue of any statute made subject to a trust for sale, the legal estate affected shall vest 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;

1ST SCH. —*cont.*

(*c*) Where at the commencement of this Act or by virtue of any statute coming into operation at the same time the land is settled land, the legal estate affected shall vest in the tenant for life or statutory owner entitled under the Settled Land Act, 1925, to require a vesting deed to be executed in his favour, or in the personal representative, if any, in whom the land may be vested or the Public Trustee, as the case may require but subject to any mortgage term subsisting or created by this Act;

(*d*) In any case to which the foregoing sub-paragraphs do not apply the legal estate affected shall vest in the person of full age who, immediately after the commencement of this Act, is entitled (subject or not 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. 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 in a person entitled to a leasehold interest, as respects such interest, any legal estate except a term of years absolute; or

(*d*) To vest in a person entitled to a rentcharge (either perpetual or held for a term of years absolute) as respects such rentcharge, any legal estate except a legal estate in the rentcharge; or

(*e*) To vest in a person entitled to an easement, right or privilege with reference thereto, any legal estate except a legal estate in the easement, right or privilege; or

(*f*) To vest any legal estate in a person for an undivided share; or

(*g*) To vest any legal estate in an infant; or

(*h*) To affect prejudicially the priority of any mortgage or other incumbrance or interest subsisting at the commencement of this Act; or

(*i*) To render invalid any limitation or trust which would have been capable of taking effect as an equitable limitation or trust; or

(*j*) To vest in a purchaser 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

1ST SCH. —*cont.*

title accepted, or to render unnecessary the conveyance of such estate; or

(*k*) To vest in the managing trustees or committee of management of a charity any legal estate vested in the Official Trustee of Charity Lands; or

(*l*) To vest in any person any legal estate which failed to pass to him by reason of his omission to be registered as proprietor under the Land Transfer Acts, 1875 and 1897, until brought into operation by virtue of the Land Registration Act, 1925.

8. Any legal estate acquired by virtue of this Part of this Schedule 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, upon or subject to which the estate acquired ought to be held.

9. No stamp duty shall become payable by reason only of any vesting surrender or release effected by this Schedule.

PART III.

PROVISIONS AS TO LEGAL ESTATE VESTED IN INFANT.

1. Where immediately before the commencement of this Act a legal estate in land is vested in one or more infants beneficially, or where immediately after the commencement of this Act a legal estate in land would by virtue of this Act have become vested in one or more infants beneficially if he or they had been of full age, the legal estate shall vest in the manner provided by the Settled Land Act, 1925.

2. Where immediately before the commencement of this Act a legal estate in land is vested in an infant jointly with one or more other persons of full age beneficially, the legal estate shall by virtue of this Act vest in that other person or those other persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale:

Provided that, if by virtue of this paragraph the legal estate becomes vested in one person as trustee, then, if no other person is able and willing to do so, the parents or parent testamentary or other guardian of the infant, if respectively able and willing to act, (in the order named) may, and at the request of any person interested shall (subject to the costs being provided for) by writing appoint an additional trustee and thereupon by virtue of this Act the legal estate shall vest in the additional trustee and existing trustee as joint tenants.

3. Where, immediately before 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 where

immediately after the commencement of this Act a legal estate in land would by virtue of any provision of this Act or otherwise 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—

(*a*) 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

(*b*) 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—

(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 in the land or the income thereof, or in the mortgage debt or interest thereon (as the case may be), which request may be made on behalf of the infant by his parents or parent, or testamentary or other guardian (in the order named), and those persons may, in the order aforesaid (if no other person is able and willing to do so) appoint new trustees in the place of the Public Trustee, and thereupon by virtue of this Act the land or term and mortgage money shall vest in the trustees so appointed upon the trusts and subject to the equities aforesaid: Provided that the Public Trustee may, before he accepts the trust, but subject to the payment of his costs, convey to a person of full age who becomes entitled;

(ii) 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;

(iii) 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;

1ST SCH. —*cont.*

(iv) 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;

(v) The vesting in the Public Trustee of a legal estate or a mortgage debt by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.

4. Where, immediately before the commencement of this Act, a legal estate in land is vested in two or more persons jointly as personal representatives, trustees, or mortgagees, and anyone of them is an infant, or where immediately after the commencement of this Act a legal estate in land would, by virtue of this Act, or otherwise 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 the other person or persons of full age—

(*a*) 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

(*b*) 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 paragraph, the legal estate and mortgage debt, if any, become vested in a sole trustee, then, if no other person is able and willing to do so, the parents or parent, testamentary or other guardian of the infant (in the order named) may, and at the request of any person interested shall, (subject to the costs being provided for) by writing appoint a new trustee in place of the infant, and thereupon by virtue of this Act the legal estate and mortgage money shall vest in the new and continuing trustees upon the trusts and subject to the equities aforesaid.

5. This Part of this Schedule does not affect the estate or powers of an administrator durante minore ætate, nor, where there is a tenant for life or statutory owner of settled land, operate to vest the legal estate therein in the Public Trustee.

1ST SCH. —*cont.*

PART IV.

PROVISIONS SUBJECTING LAND HELD IN UNDIVIDED SHARES TO A TRUST FOR SALE.

1. Where, immediately before the commencement of this Act, land is held at law or in equity in undivided shares vested in possession, the following provisions shall have effect:—

(1) If the entirety of the land is vested in trustees or personal representatives (whether subject or not to incumbrances affecting the entirety or an undivided share) in trust for persons entitled in undivided shares, then—

(*a*) if the land is subject to incumbrances affecting undivided shares or to incumbrances affecting the entirety which under this Act or otherwise are not secured by legal terms of years absolute, the entirety of the land shall vest free from such incumbrances in such trustees or personal representatives and be held by them upon the statutory trusts; and

(*b*) in any other case, the land shall be held by such trustees or personal representatives upon the statutory trusts;

subject in the case of personal representatives, to their rights and powers for the purposes of administration.

(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 thereto in undivided shares free from incumbrances affecting undivided shares, but subject or not to incumbrances affecting the entirety, 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 (whether 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, and from incumbrances affecting the entirety, which under this Act or otherwise are not secured by a legal term of years absolute, in the trustees (if any) of the settlement as joint tenants upon the statutory trusts.

Provided that if there are no such trustees, then—

(i) 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

1ST SCH. —*cont.*

act by or on behalf of persons interested in 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 the place of the Public Trustee 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 unable or unwilling to make an appointment, or if the tenant for life having power to apply to the court for the appointment of trustees of the settlement neglects to make the application for at least three months after being requested by any person interested in writing so to do, or if the tenants for life of the undivided shares are unable to agree, any person interested under the settlement may apply to the court for the appointment of such trustees.

(4) In any case to which the foregoing provisions of this Part of this Schedule 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 in 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 the place of the Public Trustee without his consent;

(iii) Subject as aforesaid, 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 in 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 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 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 upon the statutory trusts.

(5) The vesting in the Public Trustee of land by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.

(6) The court or the Public Trustee may act on evidence given by affidavit or by statutory declaration as respects the undivided shares without investigating the title to the land.

(7) Where all the undivided shares in the land are vested in the same mortgagees for securing the same mortgage money and the rights of redemption affecting the land are the same as might have been subsisting if the entirety had been mortgaged by an owner before the undivided shares were created, 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 right of redemption is vested by this Act, and for the purposes of this Part of this Schedule the mortgage shall be deemed an incumbrance affecting the entirety.

1ST SCH. —*cont.*

(8) This Part of this Schedule does not (except where otherwise expressly provided) prejudice incumbrancers whose incumbrances affect the entirety of the land at the commencement of this Act, but (if the nature of the incumbrance admits) the land shall vest in them for legal terms of years absolute in accordance with this Act but not so as to affect subsisting priorities.

(9) The trust for sale and powers of management vested in persons who hold the entirety of the land on trust for sale shall, save as hereinafter mentioned, not be exercisable without the consent of any incumbrancer, being of full age, affected whose incumbrance is divested by this Part of this Schedule, 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 this Part of this Schedule or any enactment replaced thereby the transaction would have been binding on him, had the same been effected by the mortgagor.

(10) This Part of this Schedule 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 (in which case title may be made in like manner as if this Act, and any enactment thereby replaced, had not been passed), nor to the 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.

(11) The repeal of the enactments relating to partition shall operate 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 :—

(i) In any such proceedings, and at any stage thereof, any person or persons interested individually or collectively in more than one half of 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 enactments shall cease to apply to the land affected by the order and the provisions of this Part of this Schedule shall apply thereto;

1ST SCH. —*cont.*

(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 legal mortgage of the land or any part thereof, 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.

(12) In this Part of this Schedule "incumbrance" does not include land tax, tithe rentcharge, or any similar charge on the land not created by an instrument.

2. Where undivided shares in land, created before the commencement of this Act, fall into possession after such commencement, and the land is not settled land when the shares fall into possession, the personal representatives (subject to their rights and powers for purposes of administration) or other estate owners in whom the entirety of the land is vested shall, by an assent or a conveyance, give effect to the foregoing provisions of this Part of this Schedule in like manner as if the shares had fallen into possession immediately before the commencement of this Act, and in the meantime the land shall be held on the statutory trusts.

3. This Part of this Schedule shall not save as hereinafter mentioned apply to party structures and open spaces within the meaning of the next succeeding Part of this Schedule.

PART V.

PROVISIONS AS TO PARTY STRUCTURES AND OPEN SPACES.

1. Where, immediately before the commencement of this Act, a party wall or other party structure is held in undivided shares, the ownership thereof shall be deemed to be severed vertically as between the respective owners, and the owner of each part shall have such rights to support and of user over the rest of the structure as may be requisite for conferring rights corresponding to those subsisting at the commencement of this Act.

2. Where, immediately before the commencement of this Act, an open space of land (with or without any building used in common for the purposes of any adjoining land) is held in undivided shares, in right whereof each owner has rights of access and user over the open space, the ownership thereof shall vest in the Public Trustee on the statutory trusts which shall be executed only with the leave of the court, and, subject

1ST SCH. —*cont.*

to any order of the court to the contrary, each person who would have been a tenant in common shall, until the open space is conveyed to a purchaser, have rights of access and user over the open space corresponding to those which would have subsisted if the tenancy in common had remained subsisting.

3. Any person interested may apply to the court for an order declaring the rights and interests under this Part of this Schedule, of the persons interested in any such party structure or open space, or generally may apply in relation to the provisions of this Part of this Schedule, and the court may make such order as it thinks fit.

PART VI.

CONVERSION OF TENANCIES BY ENTIRETIES INTO JOINT TENANCIES.

Every tenancy by entireties existing immediately before the commencement of this Act shall, but without prejudice to any beneficial interest, as from such commencement be converted into a joint tenancy.

PART VII.

CONVERSION OF EXISTING FREEHOLD MORTGAGES INTO MORTGAGES BY DEMISE.

1. All land, which immediately before the commencement of this Act, was vested in a first or only mortgagee for an estate in fee simple in possession, 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, which immediately before the commencement of this Act, was vested in a second or subsequent mortgagee for an estate in fee simple in possession, 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, immediately before 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, 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 at 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 Part of this Schedule 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 immediately before the commencement of this Act, the principal mortgagee shall take the principal term created by paragraphs 1 or 2 of this Part of this Schedule (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 Part of this Schedule applies to land enfranchised by statute as well as to land which was freehold before the commencement of this Act, and (save where expressly excepted) whether or not the land is registered under the Land Registration Act, 1925, or the mortgage is made by way of trust for sale or otherwise.

6. A mortgage affecting a legal estate made before the commencement of this Act which is not protected, either by a deposit of documents of title relating to the legal estate or by registration as a land charge, shall not, as against a purchaser in good faith without notice thereof, obtain any benefit by reason of being converted into a legal mortgage by this Schedule, but shall, in favour of such purchaser, be deemed to remain an equitable interest.

This paragraph does not apply to mortgages or charges registered or protected under the Land Registration Act, 1925, or to mortgages or charges registered in a local deeds register.

7. Nothing in this Part of this Schedule shall affect priorities or the right of any mortgagee to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage.

8. This Part of this Schedule does not apply unless a right of redemption is subsisting immediately before the commencement of this Act.

PART VIII.

CONVERSION OF EXISTING LEASEHOLD MORTGAGES INTO MORTGAGES BY SUBDEMISE.

1. All leasehold land, which immediately before the commencement of this Act, was 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

1ST SCH. —*cont.*

cesser corresponding to the right of redemption which at such commencement was subsisting with respect to the term assigned.

2. All leasehold land, which immediately before the commencement of this Act, was 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, 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 at 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 Part of this Schedule 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 immediately before the commencement of this Act, the principal mortgagee shall take the principal derivative term created by paragraphs 1 or 2 of this Part of this Schedule 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. A mortgage affecting a legal estate made before the commencement of this Act which is not protected, either by a deposit of documents of title relating to the legal estate or by registration as a land charge shall not, as against a purchaser in good faith without notice thereof, obtain any benefit by reason of being converted into a legal mortgage by this Schedule, but shall, in favour of such purchaser, be deemed to remain an equitable interest.

This paragraph does not apply to mortgages or charges registered or protected under the Land Registration Act, 1925, or to mortgages or charges registered in a local deeds register.

6. This Part of this Schedule applies to perpetually renewable leaseholds, and to leaseholds for lives, which are by statute

converted into long terms, with the following variations, namely :— 1ST SCH. —*cont.*

(*a*) The term to be taken by a first or only mortgagee shall be ten days less than the term created by such statute :

(*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 such statute :

(*c*) The term created by such statute shall, from and after the commencement of this Act, vest in the mortgagor or tenant for life, 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 at 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 Part of this Schedule or otherwise and to the money secured by any such mortgage or charge.

7. This Part of this Schedule applies (save where expressly excepted) whether or not the leasehold land is registered under the Land Registration Act, 1925, or the mortgage is made by way of trust for sale or otherwise.

8. Nothing in this Part of this Schedule shall affect priorities or the right of any mortgagee to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage, but this Part of this Schedule does not apply unless a right of redemption is subsisting at the commencement of this Act.

SECOND SCHEDULE.

Sections 76 and 77.

IMPLIED COVENANTS.

PART I.

COVENANT IMPLIED IN A CONVEYANCE FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS BENEFICIAL OWNER.

That, notwithstanding anything by the person who so conveys or any one through whom he derives title otherwise than by purchase for value, made, done, executed, or omitted,

2ND SCH. —*cont.*

or knowingly suffered, the person who so conveys, has, with the concurrence of every other person, if any, conveying by his direction, full power to convey the subject-matter expressed to be conveyed, subject as, if so expressed, and in the manner in which, it is expressed to be conveyed, and that, notwithstanding anything as aforesaid, that subject-matter shall remain to and be quietly entered upon, received, and held, occupied, enjoyed, and taken, by the person to whom the conveyance is expressed to be made, and any person deriving title under him, and the benefit thereof shall be received and taken accordingly, without any lawful interruption or disturbance by the person who so conveys or any person conveying by his direction, or rightfully claiming or to claim by, through, under, or in trust for the person who so conveys, or any person conveying by his direction, or by, through, or under any one (not being a person claiming in respect of an estate or interest subject whereto the conveyance is expressly made), through whom the person who so conveys derives title, otherwise than by purchase for value:

And that, freed and discharged from, or otherwise by the person who so conveys sufficiently indemnified against, all such estates, incumbrances, claims, and demands, other than those subject to which the conveyance is expressly made, as, either before or after the date of the conveyance, have been or shall be made, occasioned, or suffered by that person or by any person conveying by his direction, or by any person rightfully claiming by, through, under, or in trust for the person who so conveys, or by, through, or under any person conveying by his direction, by, through, or under any one through whom the person who so conveys derives title, otherwise than by purchase for value:

And further, that the person who so conveys, and any person conveying by his direction, and every other person having or rightfully claiming any estate or interest in the subject-matter of conveyance, other than an estate or interest subject whereto the conveyance is expressly made, by, through, under, or in trust for the person who so conveys, or by, through, or under any person conveying by his direction, or by, through, or under any one through whom the person who so conveys derives title, otherwise than by purchase for value, will, from time to time and at all times after the date of the conveyance, on the request and at the cost of any person to whom the conveyance is expressed to be made, or of any person deriving title under him, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the person to whom the conveyance is made, and to those deriving title under him, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by him or them or any of them shall be reasonably required.

In the above covenant a purchase for value shall not be deemed to include a conveyance in consideration of marriage.

2ND SCH. —*cont.*

PART II.

FURTHER COVENANT IMPLIED IN A CONVEYANCE OF LEASEHOLD PROPERTY FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS BENEFICIAL OWNER.

That, notwithstanding anything by the person who so conveys, or any one through whom he derives title, otherwise than by purchase for value, made, done, executed, or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid, and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and has in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by, and all the covenants, conditions, and agreements contained in, the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, have been paid, observed, and performed up to the time of conveyance.

In the above covenant a purchase for value shall not be deemed to include a conveyance in consideration of marriage.

PART III.

COVENANT IMPLIED IN A CONVEYANCE BY WAY OF MORTGAGE BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS BENEFICIAL OWNER.

That the person who so conveys, has, with the concurrence of every other person, if any, conveying by his direction, full power to convey the subject-matter expressed to be conveyed by him, subject as, if so expressed, and in the manner in which it is expressed to be conveyed:

And also that, if default is made in payment of the money intended to be secured by the conveyance, or any interest thereon, or any part of that money or interest, contrary to any provision in the conveyance, it shall be lawful for the person to whom the conveyance is expressed to be made, and the persons deriving title under him, to enter into and upon, or receive, and thenceforth quietly hold, occupy, and enjoy or take and have, the subject-matter expressed to be conveyed, or any part thereof, without any lawful interruption or disturbance by the person who so conveys, or any person conveying by his direction, or any other person (not being a person claiming in respect of an estate or interest subject whereto the conveyance is expressly made):

And that, freed and discharged from, or otherwise by the person who so conveys sufficiently indemnified against, all

2ND SCH. —*cont.*

estates, incumbrances, claims, and demands whatever, other than those subject whereto the conveyance is expressly made:

And further, that the person who so conveys and every person conveying by his direction, and every person deriving title under any of them, and every other person having or rightfully claiming any estate or interest in the subject-matter of conveyance, or any part thereof, other than an estate or interest subject whereto the conveyance is expressly made, will from time to time and at all times, on the request of any person to whom the conveyance is expressed to be made, or of any person deriving title under him, but, as long as any right of redemption exists under the conveyance, at the cost of the person so conveying, or of those deriving title under him, and afterwards at the cost of the person making the request, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of conveyance and every part thereof to the person to whom the conveyance is made, and to those deriving title under him, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by him or them or any of them shall be reasonably required.

The above covenant in the case of a charge shall have effect as if for references to "conveys," "conveyed" and "conveyance" there were substituted respectively references to "charges," "charged" and "charge."

PART IV.

COVENANT IMPLIED IN A CONVEYANCE BY WAY OF MORTGAGE OF FREEHOLD PROPERTY SUBJECT TO A RENT OR OF LEASEHOLD PROPERTY BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS BENEFICIAL OWNER.

That the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid, and effectual lease or grant of the land conveyed and is in full force, unforfeited, and unsurrendered and has in nowise become void or voidable, and that all the rents reserved by, and all the covenants, conditions, and agreements contained in, the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, have been paid, observed, and performed up to the time of conveyance:

And also that the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains owing on the security of the conveyance, pay, observe, and perform, or cause to be paid, observed, and performed all the rents reserved by, and all the covenants, conditions, and agreements contained in, the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, and will keep the person to whom the conveyance is made, and those deriving title under him, indemnified against all actions, proceedings, costs, charges,

damages, claims and demands, if any, to be incurred or sustained by him or them by reason of the non-payment of such rent or the non-observance or non-performance of such covenants, conditions, and agreements, or any of them.

The above covenant in the case of a charge shall have effect as if for references to "conveys," "conveyed" and "conveyance" there were substituted respectively references to "charges," "charged" and "charge."

PART V.

COVENANT IMPLIED IN A CONVEYANCE BY WAY OF SETTLEMENT, BY A PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS SETTLOR.

That the person so conveying, and every person deriving title under him by deed or act or operation of law in his lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on his death, will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made and those deriving title under them, as by them or any of them shall be reasonably required, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made.

PART VI.

COVENANT IMPLIED IN ANY CONVEYANCE, BY EVERY PERSON WHO CONVEYS AND IS EXPRESSED TO CONVEY AS TRUSTEE OR MORTGAGEE, OR AS PERSONAL REPRESENTATIVE OF A DECEASED PERSON, OR AS COMMITTEE OF A LUNATIC OR AS A RECEIVER OF A DEFECTIVE OR UNDER AN ORDER OF THE COURT.

That the person so conveying has not executed or done, or knowingly suffered, or been party or privy to, any deed or thing, whereby or by means whereof the subject-matter of the conveyance, or any part thereof, is or may be impeached, charged, affected, or incumbered in title, estate, or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying the subject-matter of the conveyance, or any part thereof, in the manner in which it is expressed to be conveyed.

The foregoing covenant may be implied in an assent in like manner as in a conveyance by deed.

PART VII.

COVENANT IMPLIED IN A CONVEYANCE FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, OF THE ENTIRETY OF LAND AFFECTED BY A RENTCHARGE.

That the grantees or the persons deriving title under them will at all times, from the date of the conveyance or other date

2ND SCH. —*cont.*

therein stated, duly pay the said rentcharge and observe and perform all the covenants, agreements and conditions contained in the deed or other document creating the rentcharge, and thenceforth on the part of the owner of the land to be observed and performed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rentcharge or any part thereof, or any breach of any of the said covenants agreements and conditions.

PART VIII.

COVENANTS IMPLIED IN A CONVEYANCE FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, OF PART OF LAND AFFECTED BY A RENTCHARGE, SUBJECT TO A PART (NOT LEGALLY APPORTIONED) OF THAT RENTCHARGE.

(i) That the grantees, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rent and observe and perform all the covenants (other than the covenant to pay the entire rent) and conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land conveyed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent, or any breach of any of the said covenants and conditions, so far as the same relate as aforesaid.

(ii) That the conveying parties, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, pay the balance of the rentcharge (after deducting the apportioned rent aforesaid, and any other rents similarly apportioned in respect of land not retained), and observe and perform all the covenants, other than the covenant to pay the entire rent, and conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land not included in the conveyance and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the grantees and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rentcharge, or any breach of any of the said covenants and conditions so far as they relate as aforesaid.

PART IX.

COVENANT IN A CONVEYANCE FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, OF THE ENTIRETY OF THE LAND COMPRISED IN A LEASE FOR THE RESIDUE OF THE TERM OR INTEREST CREATED BY THE LEASE.

That the assignees, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, duly pay all rent becoming due under the lease creating the term or interest for which the land is conveyed, and observe and perform all the covenants, agreements and conditions therein contained and thenceforth on the part of the lessees to be observed and performed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rent or any breach of any of the said covenants, agreements and conditions.

PART X.

COVENANTS IMPLIED IN A CONVEYANCE FOR VALUABLE CONSIDERATION, OTHER THAN A MORTGAGE, OF PART OF THE LAND COMPRISED IN A LEASE, FOR THE RESIDUE OF THE TERM OR INTEREST CREATED BY THE LEASE, SUBJECT TO A PART (NOT LEGALLY APPORTIONED) OF THAT RENT.

(i) That the assignees, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rent and observe and perform all the covenants, other than the covenant to pay the entire rent, agreements and conditions contained in the lease creating the term or interest for which the land is conveyed, and thenceforth on the part of the lessees to be observed and performed, so far as the same relate to the land conveyed:

And also will at all times from the date aforesaid save harmless and keep indemnified, the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent or any breach of any of the said covenants, agreements and conditions so far as the same relate as aforesaid.

(ii) That the conveying parties, or the persons deriving title under them, will at all times, from the date of the conveyance, or other date therein stated, pay the balance of the rent (after deducting the apportioned rent aforesaid and any other rents similarly apportioned in respect of land not retained) and observe and perform all the covenants, other than the covenant to pay the entire rent, agreements and conditions contained in the lease and on the part of the lessees to be observed and performed so far as the same relate to the land demised (other than the land

2ND SCH. —*cont.*

comprised in the conveyance) and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified, the assignees and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rent or any breach of any of the said covenants, agreements and conditions so far as they relate as aforesaid.

Sections 114 and 115.

THIRD SCHEDULE.

FORMS OF TRANSFER AND DISCHARGE OF MORTGAGES.

FORM NO. 1.

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 *T.* to *M.*, 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.

FORM NO. 2.

FORM OF RECEIPT ON DISCHARGE OF A MORTGAGE.

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.

FOURTH SCHEDULE.

Section 117.

FORMS RELATING TO STATUTORY CHARGES OR MORTGAGES OF FREEHOLD OR LEASEHOLD LAND.

FORM NO. 1.

STATUTORY CHARGE BY WAY OF LEGAL MORTGAGE.

This Legal Charge made by way of Statutory Mortgage the day of 19 , between *A.* of [&c.] of the one part and *M.* of [&c.] of the other part Witnesseth that in consideration of the sum of £ now paid to *A.* by *M.* of which sum *A.* hereby acknowledges the receipt *A.* As Mortgagor and As Beneficial Owner hereby charges by way of legal mortgage All That [&c.] with the payment to *M.* on the day of 19 , of the principal sum of £ as the mortgage money with interest thereon at the rate of per centum per annum.

In witness &c.

Note.—Variations in this and the subsequent forms in this Schedule to be made, if required, for leasehold land or for giving effect to special arrangements. *M.* will be in the same position as if the Charge had been effected by a demise of freeholds or a subdemise of leaseholds.

FORM NO. 2.

Section 118.

STATUTORY TRANSFER, MORTGAGOR NOT JOINING.

This Transfer of Mortgage made by way of statutory transfer the day of 19 , between *M.* of [&c.] of the one part and *T.* [of &c.] of the other part supplemental to a legal charge made by way of statutory mortgage dated [&c.] and made [&c.] Witnesseth that in consideration of the sum of £ now paid to *M.* by *T.* (being the aggregate amount of £ mortgage money and £ interest due in respect of the said legal charge of which sum *M.* hereby acknowledges the receipt) *M.* as Mortgagee hereby conveys and transfers to *T.* the benefit of the said legal charge.

In witness, &c.

Note.—This and the next two forms also apply to a transfer of a statutory mortgage made before the commencement of this Act, which will then be referred to as a mortgage instead of a legal charge.

4TH SCH. —*cont.*

Section 118.

FORM NO. 3.

STATUTORY TRANSFER, A COVENANTOR JOINING.

This Transfer of Mortgage made by way of statutory transfer the day of 19 , between *A.* of [&c.] of the first part *B.* of [&c.] of the second part and *C.* of [&c.] of the third part Supplemental to a Legal Charge made by way of statutory mortgage dated [&c.] and made [&c.] Witnesseth that in consideration of the sum of £ now paid by *A.* to *C.* (being the mortgage money due in respect of the said Legal Charge no interest being now due or payable thereon of which sum *A.* hereby acknowledges the receipt) *A.* as Mortgagee with the concurrence of *B.* who joins herein as covenantor hereby conveys and transfers to *C.* the benefit of the said Legal Charge.

In witness, &c.

Sections 117 and 118.

FORM NO. 4.

STATUTORY TRANSFER AND MORTGAGE COMBINED.

This Transfer and Legal Charge is made by way of statutory transfer and mortgage the day of 19 , between *A.* of [&c.] of the first part *B.* of [&c.] of the second part and *C.* of [&c.] of the third part Supplemental to a Legal Charge made by way of statutory mortgage dated [&c.] and made [&c.] Whereas a principal sum of £ only remains due in respect of the said Legal Charge as the mortgage money and no interest is now due thereon And Whereas *B.* is seised in fee simple of the land comprised in the said Legal Charge subject to that Charge.

Now this Deed Witnesseth as follows :—

1. In consideration of the sum of £ now paid to *A.* by *C.* (the receipt and payment of which sum *A.* & *B.* hereby respectively acknowledge)* *A.* as mortgagee hereby conveys and transfers to *C.* the benefit of the said Legal Charge.

2. For the consideration aforesaid *B.*† as beneficial owner hereby charges by way of legal mortgage All the premises comprised in the said Legal Charge with the payment to *C.* on the day of 19 of‡ the sum of £ as the mortgage money with interest thereon at the rate of per centum per annum In Witness &c. [or in the case of a further advance after " acknowledge " *at* * *insert* " and of the further sum of £ now paid by *C.* to *B.* of which sum *B.* hereby acknowledges the receipt " *also at* † *before* " as beneficial owner " *insert* " as mortgagor and " *as well as where B. is not the original mortgagor. And after* " of " *at* ‡ *insert* " the sums of £ and £ making together "].

Note.—Variations to be made, as required, in case of the deed being by indorsement, or in respect of any other thing.

4TH SCH. —*cont.*

FORM NO. 5.

RECEIPT ON DISCHARGE OF STATUTORY LEGAL CHARGE OR MORTGAGE.

Section 120.

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] mortgage money secured by the [annexed] within [above] written statutory legal charge [*or* statutory mortgage] [and by the further statutory 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 statutory legal charge or mortgage.

FIFTH SCHEDULE.

Section 206.

FORMS OF INSTRUMENTS.

FORM NO. 1.

CHARGE BY WAY OF LEGAL MORTGAGE.

This Legal Charge is 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 property 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.

5TH SCH. —*cont.*

FORM NO. 2.

FURTHER CHARGE BY WAY OF LEGAL MORTGAGE.

This Further Charge made [&c.] between [&c.] [*same parties as foregoing legal charge*] Supplemental to a Legal Charge (hereinafter called the Principal Deed) dated [&c.] and made between the same parties as are parties hereto and in the same order for securing the sum of £ and interest at per centum per annum on [freehold] [leasehold] land at [&c.].

Witnesseth as follows :—

1. In consideration of the further sum of £ now paid to *A.* by *B.* [*add receipt and covenant to pay the further advance and interest.*].

2. For the consideration aforesaid *A.* as Beneficial Owner hereby charges by way of legal mortgage the premises comprised in the Principal Deed with the payment to *B.* of the principal money and interest hereinbefore covenanted to be paid as well as the principal money, interest, and other money secured by the Principal Deed.

In witness [&c.].

FORM NO. 3.

CONVEYANCE ON SALE, LEGAL CHARGEES OR MORTGAGEES CONCURRING.

This Conveyance is made [&c.] between *A.* of [&c.] (hereinafter called the Vendor) of the first part *B.* of [&c.] and *C.* of [&c.] (hereinafter called the Mortgagees) of the second part and *D.* of [&c.] (hereinafter called the Purchaser) of the third part [*Recite the Charge by way of legal mortgage, the state of the debt, the agreement for sale and for the mortgagees to concur.*]

Now in the consideration of the sum of £ paid by the Purchaser by the direction of the Vendor to the Mortgagees (*the receipt &c.*) and of the sum of £ paid by the Purchaser to the Vendor (*the receipt &c.*) this Deed witnesseth as follows :—

1. The Vendor As Beneficial Owner hereby conveys and the Mortgagees As Mortgagees hereby [surrender and] release unto the Purchaser All That &c.

To Hold unto the Purchaser [in fee simple] discharged from all claims under the recited Legal Charge [Mortgage and to the intent that the term subsisting thereunder shall as respects the premises conveyed merge and be extinguished.].

2. [*Add any necessary acknowledgments and undertakings with respect to documents not handed over which relate to the title and any other special provisions.*]

In witness &c.

5TH SCH. —*cont.*

FORM NO. 4.

CONVEYANCE ON SALE BY LEGAL CHARGEES OR MORTGAGEES.

This Conveyance is made [&c.] between *A.* of [&c.] and *B.* of [&c.] (hereinafter called the Vendors) of the one part and *C.* of [&c.] (hereinafter called the Purchaser) of the other part [*Recite the Legal Charge or the Mortgage, with or without a deed converting the Mortgage into a legal charge and the agreement for sale*].

Now in consideration of the sum of £ paid by the Purchaser to the Vendors (the receipt &c.) this Deed witnesseth as follows :—

1. The Vendors As Mortgagees in exercise of the power for this purpose conferred on them by the Law of Property Act, 1925, and of all other powers hereby convey unto the Purchaser All Those &c.

To Hold unto the Purchaser [in fee simple] discharged from all right of redemption and claims under the recited Legal Charge [Mortgage].

2. [*Add any necessary acknowledgements as to documents retained and any other special provisions.*]

In witness &c.

FORM NO. 5.

CONVEYANCE BY PERSONAL REPRESENTATIVES OF A FEE SIMPLE RESERVING THEREOUT A TERM OF YEARS ABSOLUTE FOR GIVING LEGAL EFFECT TO A MORTGAGE.

This Conveyance is 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 1927 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 hereinafter 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

5TH SCH. —*cont.*

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 hereinafter 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 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: 5TH SCH. —*cont.*

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 IN FAVOUR OF A PERSON ABSOLUTELY ENTITLED FREE FROM INCUMBRANCES.

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].

As witness, &c.

Note.—The expression "conveyance" includes an assent, but an assent will relate back to the death unless a contrary intention appears. An assent may be properly given though duties remain to be paid if the personal representative is satisfied in regard to the arrangements made for payment.

FORM NO. 9.

ASSENT BY PERSONAL REPRESENTATIVES IN FAVOUR OF TRUSTEES FOR SALE.

We, *A.B.*, of [&c.] and *C.D.*, of [&c.] as the Personal Representatives of *X.Y.*, late of [&c.] deceased do this day of 19 hereby:—

1. As Personal Representatives assent to the vesting in [ourselves *or*] *T.A.* of [&c.] and *T.B.* of [&c.] of All Those &c. To Hold unto [ourselves *or*] the said *T.A.* and *T.B.* in fee simple 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 and other money applicable as capital and the net rents

5TH SCH. —*cont.*

and profits until sale upon the trusts respectively declared concerning the same [*or* the proceeds of sale and the rents and profits of certain property at] by the Will dated [&c.] of [&c.] [*or* by the Settlement dated &c. *or otherwise as the case may require*].

2. And declare that *F.* of [&c.] and *M.* of [&c.] during their joint lives and the survivor of them during his or her life have or has power to appoint new trustees of this Assent [*or* " that the statutory power to appoint new trustees applies to this Assent " *or otherwise as the case requires to correspond with the power applicable to the Will or Settlement*].

As witness &c.

Section 206.

SIXTH SCHEDULE.

EPITOMES OF ABSTRACTS OF TITLE.

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.

10th June 1897. *Will of H. Jones, appointing Maria Jones and W. Jones executors and Settled Land Act trustees.*

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.

4th June 1898. *Death of H. Jones.*

6TH SCH. —*cont.*

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.]	
Conveyance by the executors to the uses of the Will.	20th August 1899.
Appointment of R. and S. to be Settled Land Act trustees of the will in place of Maria Jones and W. Jones who retire.	2nd September 1915.
The Settled Land and Law of Property Acts, 1925, come into operation.	1st January 1926.
[NOTE.—The legal estate in fee simple will vest in W. Jones in fee simple, but he cannot deal with it till the vesting deed is executed.]	
Deed by the Settled Land Act trustees declaring the fee simple is vested in W. Jones on the trusts of the Will and stating that they are the trustees of the settlement.	20th January 1926.
Appointment by W. Jones of five thousand pounds, part of the ten thousand pounds, to his daughter, Ann Jones.	2nd February 1926.
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.	3rd February 1926.
Will of W. Jones, appointing T. Brooks his executor.	4th February 1926.
Death of W. Jones leaving three children, Frederick Jones, his eldest son, and E. Jones and Ann Robinson.	6th March 1926.
Disentail by Frederick Jones in trust for himself in fee simple.	2nd April 1926.
Will of W. Jones proved by R. and S. in regard to the settled land.	3rd May 1926.
Mortgage by E. Jones of his one-half of the ten thousand pounds to *K.*	6th June 1926.
Death of Maria Jones, jointress.	1st December 1926.
Release by *F.* and *G.* on payment to them of the five thousand pounds of Ann Robinson.	2nd January 1927.
Release by E. Jones and *K.*, his mortgagee, of the five thousand pounds raisable for E. Jones.	Same date.
Assent by R. and S., as personal representatives to Frederick Jones in fee, without nominating Settled Land Act trustees.	3rd January 1927.
[NOTE.—If the Assent had been made before the family charges had been cleared, the personal representatives would have nominated themselves as being the trustees of the settlement, and a discharge from them would have been required when the charges were cleared.]	

6TH SCH. —*cont.*

6th February 1927. *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.*

20th March 1927. 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.

1st June 1927. 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.

8th August 1927. 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.

12th November 1927. Death of *M.*

20th December 1927. Appointment of *F.* as trustee of the conveyance on trust for sale in the place of *M.*, and jointly with *N.*

10th June 1928. *Conveyance by the then Estate Trustees of the C. Assurance Society, under their power of sale as first mortgagees, to John Williams in fee.*

[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.]

12th January 1929. John Williams leaves Great Britain and Northern Ireland is believed to be alive but cannot be found.

10th August 1929. *Private Act passed authorising the X. Company to acquire Blackacre under compulsory powers.*

15th June 1930. *Statutory declaration as to facts known with reference to John Williams.*

16th June 1930. *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, vesting the land in themselves.*

[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.

6TH SCH. —*cont.*

OF THE TITLE OF THE TRUSTEES OF FRANK SMITHERS TO GREENACRE.

RELATING TO UNDIVIDED SHARES.

Mortgage by James Smith of Greenacre to M. Coy., Ltd. in fee to secure 1,000*l. and interest.*	2nd January 1910.
Will of James Smith devising Greenacre to his ten children named therein in equal shares and appointing E. to be his executor.	4th February 1910.
Death of James Smith, leaving the ten children surviving.	1st March 1910.
Probate by E.	3rd April 1910.
Assent by E. to the devise to the ten children.	4th December 1910.
Mortgage by one of the sons of his tenth share.	5th January 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.	15th April 1911.
Settlement by another of the sons of his tenth share and appointing Settled Land Act trustees.	20th May 1911.
Will of another daughter devising her tenth to her husband and appointing him executor.	8th June 1913.
Death of the testatrix.	20th June 1913.
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, 1925, 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 1926.
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 1926.
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 1927.

[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.]

6TH SCH. —*cont.*

4th June 1927. 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.

1st December 1927. Death of testator.

20th April 1928. *Probate by X. and Y.*

3rd May 1928. *Assent by X. and Y. vesting the settled land in John Robinson upon the trusts of the will of Walter Robinson, and stating that they are the trustees of the settlement.*

14th July 1928. Will of John Robinson appointing his daughters Mary Robinson and Jane Robinson his executors.

16th March 1930. Death of John Robinson without having had a son and leaving five daughters.

12th June 1930. *Probate by X. and Y. in regard to the settled land.*

25th July 1930. *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 1931. *Conveyance on sale by X. and Y. of Greenacre to Frank Smithers in fee.*

8th January 1931. Equitable charge by Frank Smithers to James Montagu by way of indemnity and agreement to vest Greenacre in a trust corporation 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 1932 *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 1933. *Conveyance by Frank Smithers, of Greenacre, to a trust corporation 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 1931.

SPECIMEN No. 3.

6TH SCH. —*cont.*

OF THE TITLE OF R. HORNE TO WHITEACRE.

WHERE THE TITLE COMMENCES AFTER THE COMMENCEMENT OF THIS ACT.

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. — 4th July 1926.

Appointment of R. and S. to be trustees for the purposes of the Settled Land Act, 1925.

Provisions extending the powers conferred by the Settled Land Act, so far as they relate to dealings with land, and giving power for John Wilson during his life to appoint new trustees.

Trust Instrument. — 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.

Appointment of new trustee of the Trust Instrument and of the five hundred years' term. — 4th September 1926.

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.*

Deed stating that R. and P. are the trustees of the settlement. Memorandum of the deed endorsed on the Vesting Deed. — Same date.

Will of John Wilson appointing Isaac James and Joseph James executors. — 7th January 1927.

Death of John Wilson, leaving younger children and his widow. — 3rd September 1927.

6TH SCH. —*cont.*

Will of John Wilson proved by R. and P. in regard to the settled land.

4th April 1928. 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 1928.

[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.]

2nd December 1928. *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.*

Statement that R. and P. are the trustees of the settlement. Power for Henry Wilson during his life to appoint new trustees.

The same provisions for extending powers conferred by the Settled Land Act 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 1929. Appointment of James Cook and Harry Cook to be trustees of the Trust Deed.

2nd June 1929. *Deed stating that they are the trustees of the settlement. Endorsement of notice on the Vesting Deed.*

4th November 1929. Transfer of the mortgage for five thousand pounds by *B.* to *C.*

10th July 1930. Death of Henry Wilson, leaving Thomas Wilson, his eldest son, and two younger children.

1st October 1930. *Letters of Administration to the settled land of Henry Wilson granted to James Cook and Harry Cook.*

3rd November 1930. Disentail by Thomas Wilson.

4th November 1930. 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 1930. 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 1930. 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 cesser on redemption or charge by way of legal mortgage.*

6TH SCH. —*cont.*

Assent by them to the vesting of the settled land, subject to the term or legal charge, in Thomas Wilson in fee, without nominating Settled Land Act trustees.	Same date. 20th November 1930.
Conveyance by Thomas Wilson and L. and M. to R. Horne in fee.	10th March 193].

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 1922.
Death of testator, leaving his two sons, giving dates of their births.	4th February 1922.
Probate by X. and Y.	12th May 1922.
Assent to the devise, John Wilcox being still an infant.	15th December 1922.
The Settled Land Act, 1925, and The Law of Property Act, 1925, come into force and vest the settled land in *X.* and *Y.* as Settled Land Act trustees by reason of John Wilcox being an infant.	1st January 1926.
Instrument declaring that the settled land is vested in X and Y.	4th January 1926.
Death of John Wilcox a bachelor and an infant.	3rd June 1926.
Conveyance on sale of Rich Farm by X. and Y. to M. Curtis.	29th September 1926.
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 with a statement that they are the trustees of the settlement.	12th October 1927.
Conveyance on sale of Middle Farm by Gilbert Wilcox to M. Curtis, X. and Y. joining to receive the purchase money.	10th November 1927.
Will of M. Curtis purporting to appoint his infant son John Curtis executor.	1st February 1928.
Death of M. Curtis.	3rd April 1928.
Letters of administration with the will annexed granted to M. and N. [NOTE.—Administration will either be granted to a trust Corporation or to not less than two individuals, if there are Settled Land Act trustees, it will, as respects the settled land, be granted to them.]	5th September 1928.

6TH SCH. —*cont.*

SPECIMEN No. 5.

OF THE TITLE OF GEORGE SMITH TO HOUSES IN JOHN STREET.

RELATING TO LEASEHOLD PROPERTY.

25th March 1921. *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 1921. *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 1924. *Transfer of First Mortgage by A. to T. in trust for Henry Chubb, who pays off the First Mortgage debt.*

1st January 1926. The Law of Property Act, 1925, comes into operation.

[NOTE.—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 1926. Order of Court directing Henry Chubb to hand over the Lease, First Mortgage, and Transfer of that Mortgage to *B.*

20th July 1926. *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.]

SEVENTH SCHEDULE.

Section 207.

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeals.
27 Hen. 8. c. 10.	The Statute of Uses	The whole Act.
32 Hen. 8. c. 34.	Graunties of reversions.	The whole Act.
13 Eliz. c. 5.	An Acte against fraudulent deedes, giftes, alienations, &c.	The whole Act.
27 Eliz. c. 4.	An Act against covenous and fraudulent conveyances.	The whole Act.
29 Car. 2. c. 3.	The Statute of Frauds	Sections one, two and three. In section four the words "or "upon any contract or sale "of lands, tenements or here- "ditaments or any interest in "or concerning them." Sections seven, eight, nine and twenty-four.
4 Will. & Mar. c. 16.	An Act to prevent frauds by clandestine mortgages.	The whole Act.
4 & 5 Anne c. 3.	An Act for the amendment of the law and the better Advancement of Justice.	Sections nine and ten.
4 Geo. 2 c. 28.	The Landlord and Tenant Act, 1730.	Section six.
11 Geo. 2. c. 19.	The Distress for Rent Act, 1737.	Section eleven.
39 & 40 Geo. 3. c. 98.	The Accumulations Act, 1800.	The whole Act.
11 Geo. 4. and 1 Will. 4. c. 46.	The Illusory Appointments Act, 1830.	The whole Act.
3 & 4 Will. 4. c. 74.	The Fines and Recovery Act, 1833.	Section thirty-two as respects settlements made or coming into operation after the commencement of this Act.
1 & 2 Vict. c. 110.	The Judgments Act, 1838.	Section thirteen.

7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
8 & 9 Vict. c. 106.	The Real Property Act, 1845.	Sections two, three, four, five, six, seven and nine.
8 & 9 Vict. c. 112.	The Satisfied Terms Act, 1845.	The whole Act.
12 & 13 Vict. c. 26.	The Leases Act, 1849	The whole Act.
12 & 13 Vict. c. 110.	An Act for suspending until the first day of June one thousand eight hundred and fifty, the operation of an Act passed this Session intituled an Act for granting relief against defects in leases under powers of leasing in certain cases.	The whole Act.
13 & 14 Vict. c. 17.	The Leases Act, 1850	The whole Act.
15 & 16 Vict. c. 76.	The Common Law Procedure Act, 1852.	Section two hundred and nine.
17 & 18 Vict. c. 97.	The Inclosure Act, 1854.	The proviso to section eleven, and in section thirteen the words "so far as the same has "been apportioned upon the "lands of persons interested "and making applications as "aforesaid."
18 & 19 Vict. c. 15.	The Judgments Act, 1855.	In section eleven the words "nor "shall any such judgment, "decree, order, or rule, or the "money thereby secured be a "charge upon such lands tene- "ments or hereditaments so "vested in purchasers or "mortgagees."
22 & 23 Vict. c. 35.	The Law of Property Amendment Act, 1859.	Sections one, two, three, ten, eleven, twelve, twenty-one and twenty-four.
23 & 24 Vict. c. 38.	The Law of Property Amendment Act, 1860.	Sections six and eight.
31 & 32 Vict. c. 4.	The Sales of Reversions Act, 1867.	The whole Act.

7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
31 & 32 Vict. c. 40.	The Partition Act, 1868.	The whole Act without prejudice to proceedings commenced thereunder before the commencement of this Act.
34 & 35 Vict. c. 31.	The Trade Union Act, 1871.	In section seven the words "not "exceeding one acre."
36 & 37 Vict. c. 66.	The Supreme Court of Judicature Act, 1873.	Subsections (3) to (7) of section twenty-five.
37 & 38 Vict. c. 37.	The Powers of Appointment Act, 1874.	The whole Act.
37 & 38 Vict. c. 78.	The Vendor and Purchaser Act, 1874.	The whole Act.
39 & 40 Vict. c. 17.	The Partition Act, 1876.	The whole Act without prejudice to proceedings commenced thereunder before the commencement of this Act.
44 & 45 Vict. c. 41.	The Conveyancing Act, 1881.	The whole Act, except section thirty so far as it relates to deaths occurring before the commencement of this Act, and except sections forty-two and forty-three so far as those sections relate to instruments coming into operation before the commencement of this Act and except section two and except section forty-eight.
45 & 46 Vict. c. 39.	The Conveyancing Act, 1882.	The whole Act.
55 & 56 Vict. c. 13.	The Conveyancing and Law of Property Act, 1892.	The whole Act.
55 & 56 Vict. c. 58.	The Accumulations Act, 1892.	The whole Act.
56 & 57 Vict. c. 21.	The Voluntary Conveyances Act, 1893.	The whole Act.
56 & 57 Vict. c. 53.	The Trustee Act, 1893	Section forty-four.
57 Vict. c. 10	The Trustee Act, 1893, Amendment Act, 1894.	Section three.

7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
63 & 64 Vict. c. 26.	The Land Charges Act, 1900.	Subsections (1) & (2) of section two.
7 Edw. 7. c. 18.	The Married Women's Property Act, 1907.	Section one.
1 & 2 Geo. 5. c. 37.	The Conveyancing Act, 1911.	The whole Act except sections eight and fourteen and except section twelve so far as it relates to deaths occurring before the commencement of this Act.
12 & 13 Geo. 5. c. 16.	The Law of Property Act, 1922.	The whole of Part I. except sections four and ten so far as they relate to settled land, section twelve, section thirteen so far as it relates to settled land, and sections fourteen, sixteen, twenty-six, and subsection (2) of section twenty-eight. The whole of Part III. except subsection (4) of section eighty-three ; sections eighty-six and eighty-eight. Subsection (3) of section one hundred and thirteen. Subsection (5) of section one hundred and twenty-three. Subsection (10) of section one hundred and thirty-eight. Section one hundred and forty-six. Section one hundred and fifty-two. Subsection (13) of section one hundred and fifty-six ; Last paragraph of subsection (1) of section one hundred and fifty-eight. The First Schedule except as respects Part II. so far as it relates to settled land. The Second Schedule. The Third Schedule except so far as it relates to settled land. The Fourth Schedule. Sub-paragraph (3) of paragraph one of the Fifth Schedule

7TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeals.
12 & 13 Geo. 5. c. 16—*cont.*	- - - -	The Sixth Schedule except paragraphs one and three and sub-paragraphs (1), (3) and the first paragraph of sub-paragraph (4) of paragraph four and sub-paragraphs (2) and (3) of paragraph five. The Eighth Schedule. In the Ninth Schedule, forms Nos. 5, 6, 7 and 9, and No. 8, except so far as it relates to settled land. The Eleventh Schedule. In the Fifteenth Schedule, sub-paragraph (3) of paragraph seven.
15 Geo. 5. c. 5.	The Law of Property (Amendment) Act, 1924.	Section three and the Third Schedule.

CHAPTER 21.

An Act to consolidate the Land Transfer Acts and the statute law relating to registered land.

[9th April 1925.]

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.

PRELIMINARY.

Registers to be continued.

1. There shall continue to be kept at His Majesty's Land Registry, a register of title to freehold land and leasehold land.

What estates may be registered.

2.—(1) After the commencement of this Act, estates capable of subsisting as legal estates shall be the only interests in land in respect of which a proprietor can be registered and all other interests in registered land (except overriding interests and interests entered on the register