| Name of Borough. | Name of County in which, for the purpose of this Act, the Borough is deemed to be situate. |
|---|---|
| Hastings | Sussex. |
| Huddersfield | York, West Riding. |
| Ipswich | Suffolk. |
| Kingston-upon-Hull | York, East Riding. |
| Leeds | York, West Riding. |
| Leicester | Leicester. |
| Lincoln | Lincoln (parts of Lindsey). |
| Liverpool | Lancaster. |
| Manchester | Lancaster. |
| Middlesbrough | York, North Riding. |
| Newcastle-upon-Tyne | Northumberland. |
| Northampton | Northampton. |
| Norwich | Norfolk. |
| Nottingham | Nottingham. |
| Oldham | Lancaster. |
| Plymouth | Devon. |
| Portsmouth | Hants. |
| Preston | Lancaster. |
| Reading | Berks. |
| Rochdale | Lancaster. |
| Saint Helen's | Lancaster. |
| Salford | Lancaster. |
| Sheffield | York, West Riding. |
| Southampton | Hants. |
| South Shields | Durham. |
| Stockport | Chester and Lancaster. |
| Sunderland | Durham. |
| Swansea | Glamorgan. |
| Walsall | Stafford. |
| West Bromwich | Stafford. |
| West Ham | Essex. |
| Wigan | Lancaster. |
| Wolverhampton | Stafford. |
| Worcester | Worcester. |
| York | York, North, East, and West Ridings. |

## CHAPTER 42.

An Act to consolidate and amend the Law relating to Mortmain and to the disposition of Land for Charitable Uses. [13th August 1888.]

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

## PART I.

### MORTMAIN.

Forfeiture on unlawful assurance or acquisition in mortmain.

**1.**—(1.) Land shall not be assured to or for the benefit of, or acquired by or on behalf of, any corporation in mortmain, otherwise than under the authority of a licence from Her Majesty the Queen, or of a statute for the time being in force, and if any land is so assured otherwise than as aforesaid the land shall be forfeited to Her Majesty from the date of the assurance, and Her Majesty may enter on and hold the land accordingly:

(2.) Provided as follows:

(i.) if the land is held directly of a mesne lord under Her Majesty, that mesne lord may enter on and hold the land at any time within twelve months from the date of the assurance:

(ii.) if the land is held of more than one mesne lord in gradation under Her Majesty, the superior of those mesne lords may enter on and hold the land at any time within six months after the time at which the right of the inferior lord to enter on the land expires:

(iii.) If a mesne lord is at the time when his right of entry accrues under this Act a lunatic or otherwise under incapacity, his right of entry may be exercised by his guardian or the committee of his estate, or by such person as Her Majesty's High Court of Justice may appoint in that behalf:

(iv.) If the right of entry under this Act is exercised by or on behalf of a mesne lord, the land shall be forfeited to that lord from the date of the assurance instead of to Her Majesty.

Power to Her Majesty to grant licences in mortmain.

**2.** It shall be lawful for Her Majesty the Queen, if and when and in such form as she thinks fit, to grant to any person or corporation a licence to assure in mortmain land in perpetuity or otherwise, and to grant to any corporation a licence to acquire land in mortmain and to hold the land in perpetuity or otherwise.

Saving for rents and services.

**3.** No entry or holding by or forfeiture to Her Majesty under this Part of this Act, shall merge or extinguish, or otherwise affect, any rent or service which may be due in respect of any land to Her Majesty or any other lord thereof.

## PART II.

### CHARITABLE USES.

Conditions under which assurances may be made to charitable uses.

**4.**—(1.) Subject to the savings and exceptions contained in this Act, every assurance of land to or for the benefit of any charitable uses, and every assurance of personal estate to be laid out in the purchase of land to or for the benefit of any charitable uses, shall be made in accordance with the requirements of this Act, and unless so made shall be void.

(2.) The assurance must be made to take effect in possession for the charitable uses to or for the benefit of which it is made immediately from the making thereof.

(3.) The assurance must, except as provided by this section, be without any power of revocation, reservation, condition, or provision for the benefit of the assuror or of any person claiming under him.

(4.) Provided that the assurance, or any instrument forming part of the same transaction, may contain all or any of the following provisions, so, however, that they reserve the same benefits to persons claiming under the assuror as to the assuror himself; namely,

(i.) The grant or reservation of a peppercorn or other nominal rent;

(ii.) The grant or reservation of mines or minerals;

(iii.) The grant or reservation of any easement;

(iv.) Covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, drainage or nuisances, and covenants or provisions of the like nature for the use and enjoyment as well of the land comprised in the assurance as of any other adjacent or neighbouring land;

(v.) A right of entry on nonpayment of any such rent or on breach of any such covenant or provision;

(vi.) Any stipulations of the like nature for the benefit of the assuror or of any person claiming under him.

(5.) If the assurance is made in good faith on a sale for full and valuable consideration, that consideration may consist wholly or partly of a rent, rentcharge, or other annual payment reserved or made payable to the vendor, or any other person, with or without a right of re-entry for nonpayment thereof.

(6.) If the assurance is of land, not being land of copyhold or customary tenure, or is of personal estate, not being stock in the public funds, it must be made by deed executed in the presence of at least two witnesses.

(7.) If the assurance is of land, or of personal estate, not being stock in the public funds, then, unless it is made in good faith for full and valuable consideration, it must be made at least twelve months before the death of the assuror, including in those twelve months the days of the making of the assurance and of the death.

(8.) If the assurance is of stock in the public funds, then, unless it is made in good faith for full and valuable consideration, it must be made by transfer thereof in the public books kept for the transfer of stock at least six months before the death of the assuror, including in those six months the days of the transfer and of the death.

(9.) If the assurance is of land, or of personal estate other than stock in the public funds, it must, within six months after the execution thereof, be enrolled in the Central Office of the Supreme Court of Judicature, unless in the case of an assurance of land to

or for the benefit of charitable uses those uses are declared by a separate instrument, in which case that separate instrument must be so enrolled within six months after the making of the assurance of the land.

Power to remedy omission to enrol within requisite time.

**5.**—(1.) Where an instrument, the enrolment whereof is required under this Part of this Act for the validation of an assurance, is not duly enrolled within the requisite time, Her Majesty's High Court of Justice, or the officer having control over the enrolment of deeds in the Central Office, may, on application in such manner and on payment of such fee as may be prescribed by rules of the Supreme Court, and on being satisfied that the omission to enrol the instrument in proper time has arisen from ignorance or inadvertence, or through the destruction or loss of the instrument by time or accident, and that the assurance was of a nature to be validated under this section, order or cause the instrument to be enrolled.

(2.) Thereupon, if the assurance to be validated was made in good faith and for full and valuable consideration, and was made to take effect in possession immediately from the making thereof without any power of revocation, reservation, condition, or provision, except such as is authorised by this Act, and if at the time of the application possession or enjoyment was held under the assurance, then enrolment in pursuance of this section shall have the same effect as if it had been made within the requisite time:

(3.) Provided that if at the time of the application any proceeding for setting aside the assurance, or for asserting any right founded on the invalidity of the assurance, is pending, or any decree or judgment founded on such invalidity has been then obtained, the enrolment under this section shall not give any validity to the assurance.

(4.) Where the instrument omitted to be enrolled in proper time has been destroyed or lost by time or accident and the trusts thereof sufficiently appear by a copy or abstract thereof or some subsequent instrument, such copy, abstract, or subsequent instrument may be enrolled under this section in like manner and with the like effect as if it were the instrument so destroyed or lost.

(5.) An application under this section may be made by any trustee, governor, director, or manager of, or other person entitled to act in the management of or otherwise interested in, any charity or charitable trust intended to be benefited by the uses declared by the instrument to be enrolled.

## PART III.

### EXEMPTIONS.

Assurances for a public park, elementary school, or public museum.

**6.**—(1.) Parts One and Two of this Act shall not apply to an assurance by deed of land of any quantity or to an assurance by will of land of the quantity herein-after mentioned for the purposes only of a public park, a schoolhouse for an elementary school, a public museum, or an assurance by will of personal estate to be

applied in or towards the purchase of land for all or any of the same purposes only:

(2.) Provided that a will containing such an assurance, and a deed containing such an assurance and made otherwise than in good faith for full and valuable consideration, must be executed not less than twelve months before the death of the assuror, or be a reproduction in substance of a devise made in a previous will in force at the time of such reproduction, and which was executed not less than twelve months before the death of the assurer, and must be enrolled in the books of the Charity Commissioners within six months after the death of the testator, or in case of a deed the execution of the deed.

(3.) The quantity of land which may be assured by will under this section shall be any quantity not exceeding twenty acres for any one public park, and not exceeding two acres for any one public museum, and not exceeding one acre for any one schoolhouse.

(4.) In this section:—

(i.) "public park" includes any park, garden, or other land dedicated or to be dedicated to the recreation of the public;

(ii.) "elementary school" means a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction from each scholar exceed ninepence a week;

(iii.) "school house" includes the teacher's dwelling-house, the playground (if any), and the offices and premises belonging to or required for a school;

(iv.) "public museum" includes buildings used or to be used for the preservation of a collection of paintings or other works of art, or of objects of natural history, or of mechanical or philosophical inventions, instruments, models, or designs, and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories, and other offices and premises used or to be used in connexion therewith.

Assurances for certain universities, colleges, and societies.

**7.** Part Two of this Act shall not apply to the following assurances:

(i.) An assurance of land, or personal estate to be laid out in the purchase of land, to or in trust for any of the Universities of Oxford, Cambridge, London, Durham, and the Victoria University, or any of the colleges or houses of learning within any of those universities, or to or in trust for any of the Colleges of Eton, Winchester, and Westminster, for the better support and maintenance of the scholars only upon the foundations of those last-mentioned colleges, or to or in trust for the warden, council, and scholars of Keble College:

(ii.) An assurance, otherwise than by will, to trustees on behalf of any society or body of persons associated together for religious purposes or for the promotion of education, art,

literature, science, or other like purposes of land not exceeding two acres for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected, so that the assurance be made in good faith for full and valuable consideration:

Provided that the trustees of the instrument containing any assurance to which this section applies or declaring the trusts thereof, may, if they think fit, at any time cause the instrument to be enrolled in the Central Office of the Supreme Court of Judicature.

Substitution of provisions of Act for corresponding repealed enactments.

**8.** Where by any Statute now in force any provision of the enactments hereby repealed is excluded either wholly or partially from application, or is applied with modification, in every such case the corresponding provision of this Act shall be excluded or applied in like extent and manner.

## PART IV.

### SUPPLEMENTAL.

Adaptation of law to system of land registration. 38 & 39 Vict. c. 87.

**9.** Any assurance of land which is by this Act required to be made by deed may be made by a registered disposition under the provisions of the Land Transfer Act, 1875, or of any Act amending the same, and any assurance so made shall be exempt from the provisions of this Act as to execution in the presence of witnesses, and as to enrolment in the Central Office of the Supreme Court.

Definitions.

**10.** In this Act, unless the context otherwise requires,—

(i.) "Assurance" includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, incumbrance, devise, bequest, and every other assurance by deed, will, or other instrument; and "assure" and "assuror" have meanings corresponding with assurance.

(ii.) "Will" includes codicil.

(iii.) "Land" includes tenements and hereditaments corporeal and incorporeal of whatsoever tenure, and any estate and interest in land.

(iv.) "Full and valuable consideration" includes such a consideration either actually paid upon or before the making of the assurance, or reserved or made payable to the vendor or any other person by way of rent, rentcharge, or other annual payment in perpetuity, or for any term of years or other period, with or without a right of re-entry for nonpayment thereof, or partly paid and partly reserved as aforesaid.

Extent of Act.

**11.** This Act shall not extend to Scotland or Ireland.

Savings for existing customs, &c.

**12.** Nothing in this Act shall affect the operation or validity of any charter, licence, or custom in force at the passing of this Act enabling land to be assured or held in mortmain.

Repeal.

**13.**—(1.) The Acts specified in the Schedule to this Act are hereby repealed, from and after the passing of this Act, to the extent specified in the third column of that schedule:

Provided that this repeal shall not affect—

(*a*) Any enactment not hereby repealed referring to any enactment hereby repealed, except that in lieu of that reference the unrepealed enactment shall be construed as if it referred to the corresponding provisions of this Act; or

(*b*) The past operation of any enactment hereby repealed, or any instrument or thing executed, done, or suffered before the passing of this Act; or

(*c*) Any right, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; or

(*d*) Any action, proceeding, or thing pending or uncompleted at the time of the passing of this Act.

(2.) Whereas by the preamble to the Act of the forty-third year of Elizabeth, chapter four (being one of the enactments hereby repealed), it is recited as follows:

"Whereas landes tenementes rentes annuities pfittes hereditamentes, goodes chattels money and stockes of money, have bene heretofore given limitted appointed and assigned, as well by the Queenes moste excellent Majestie and her moste noble progenitors, as by sondrie other well disposed psons, some for releife of aged impotent and poore people, some for maintenance of sicke and maymed souldiers and marriners, schooles of learninge, free schooles and schollers in univsities, some for repaire of bridges portes havens causwaies churches seabankes and highewaies, some for educacon and pfermente of orphans, some for or towardes reliefe stocke or maintenance for howses of correccon, some for mariages of poore maides, some for supportacon ayde and helpe of younge tradesmen, handiecraftesmen and psons decayed, and others for releife or redemption of prisoners or captives, and for aide or ease of any poore inhabitantes concninge paymente of fifteenes, settinge out of souldiers and other taxes; whiche landes tenements rents annuities pfitts hereditaments goodes chattells money and stockes of money nevtheles have not byn imployed accordinge to the charitable intente of the givers and founders thereof, by reason of fraudes breaches of truste and negligence in those that shoulde pay delyver and imploy the same:" and whereas in divers enactments and documents reference is made to charities within the meaning, purview, and interpretation of the said Act:

Be it therefore enacted that references to such charities shall be construed as references to charities within the meaning, purview, and interpretation of the said preamble.

**14.** This Act may be cited as the Mortmain and Charitable Uses Act, 1888. Short title.

Sect. 13.

# SCHEDULE.

## *Acts Repealed.*

*Note.*—This Schedule is to be read as referring to the Revised Edition of the Statutes prepared under the direction of the Statute Law Committee, in all cases of statutes included in that edition as already published.

The chapters of the statutes (before the division into separate Acts) are described by the marginal abstracts given in that edition.

| Session and Chapter. | Title. | Extent of Repeal. |
|---|---|---|
| 7 Edw. 1. | *Statut' de Viris Religiosis* | The whole Act. |
| 13 Edw. 1. c. 32. | Remedy in case of mortmain under judgements by collusion. | The whole chapter. |
| 18 Ed. 3. st. 3. c. 3. | Prosecutions against religious persons for purchasing lands in mortmain. | The whole chapter. |
| 15 Ric. 2. c. 5. | St. 7 Edw. 1. de Religiosis. Converting land to a churchyard declared to be within that statute.<br>Mortmain where any is seised of lands to the use of spiritual persons.<br>Mortmain to purchase lands in gilds, fraternities, offices, commonalties, or to their use. | The whole chapter. |
| 23 Hen. 8. c. 10. | An Acte for feoffments and assurannce of landes and tenements made to the use of any parisshe Churche, Chapell, or suche like. | The whole Act. |
| 43 Eliz. c. 4. | An Acte to redresse the misemployment of landes, goodes, and stockes of money heretofore given to charitable uses. | The whole Act. |
| 7 & 8 Will. 3. c. 37. | An Acte for the encouragement of charitable gifts and dispositions. | The whole Act. |
| 9 Geo. 2. c. 36. | An Act to restrain the disposition of lands whereby the same become unalienable. | The whole Act, except so much of section five as is unrepealed. |
| 9 Geo. 4. c. 85. | An Act for remedying a defect in the titles of lands purchased for charitable purposes. | The whole Act. |
| 24 & 25 Vict. c. 9. | An Act to amend the law relating to the conveyance of land for charitable uses. | The whole Act. |
| 25 & 26 Vict. c. 17. | An Act to extend the time for making enrolments under the Act passed in the last session of Parliament, intituled "An Act to amend the law "relating to the conveyance of "land for charitable uses, and to "explain and amend the said "Act." | The whole Act. |

| Session and Chapter. | Title. | Extent of Repeal. |
|---|---|---|
| 27 & 28 Vict. c. 13. | An Act to further extend the time for making enrolments under the Act passed in the twenty-fourth year of the reign of Her present Majesty, intituled, "An Act to "amend the law relating to the "conveyance of lands for chari- "table uses, and otherwise to "amend the said law." | The whole Act. |
| 29 & 30 Vict. c. 57. | An Act to make further provision for the enrolment of certain deeds, assurances, and other instruments relating to charitable trusts. | The whole Act. |
| 31 & 32 Vict. c. 44. | An Act for facilitating the acquisition and enjoyment of sites for buildings for religious, educational, literary, scientific, and other charitable purposes. | Sections one and two. |
| 34 & 35 Vict. c. 13. | An Act to facilitate gifts of land for public parks, schools, and museums. | The whole Act. |
| 35 & 36 Vict. c. 24. | An Act to facilitate the incorporation of trustees of charities for religious, educational, literary, scientific, and public charitable purposes, and the enrolment of certain charitable trust deeds. | Section thirteen. |

# CHAPTER 43.

## An Act to consolidate and amend the County Courts Acts.

[13th August 1888.]

WHEREAS it is desirable to consolidate and amend the County Courts Acts:

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

### PRELIMINARY.

**1.** This Act may be cited as the County Courts Act, 1888. **Short title.**

**2.** This Act, save as in this Act otherwise expressly provided, shall come into operation on the first day of January one thousand eight hundred and eighty-nine, which day is in this Act referred to as the commencement of this Act. **Commencement of Act.**