

SCHEDULES.

FIRST SCHEDULE

Section 2.

PART I

OUTSTANDING LEGAL ESTATES.

Provisions for discharging or getting in bare outstanding legal estates.

- 1 If any legal term of years absolute, subsisting at the commencement of this Act, would, if the same had been created out of an estate in fee simple, have been a satisfied term within the meaning of the Satisfied Terms Act, 1845, then that term shall merge in the reversion expectant thereon, and be deemed a satisfied term for the purposes of that Act, and shall cease accordingly.
- 2 Where at or immediately after the commencement of this Act any owner of a legal estate is entitled, subject only to the payment of the costs of tracing the title and of conveyance, to require any other legal estate to be surrendered, released or conveyed to him, the last-mentioned estate shall (except in the case of a satisfied term) by virtue of this enactment be extinguished or shall vest in manner hereinafter provided.
- 3 Where at or immediately after the commencement of this Act any person is entitled, subject only to the payment of the costs of tracing the title and of conveyance, to require any legal estate to be conveyed to or otherwise vested in him, the same shall, by virtue of this enactment, vest in manner hereinafter provided. And this provision shall (without prejudice to any claim in respect of fines, fees, and other customary payments) apply to a person who, under a surrender or any disposition having the effect of a surrender, or under a covenant to surrender or otherwise, was, immediately before the commencement of this Act, entitled to require a legal customary estate of inheritance to be vested in him.
- 4 Any person (not otherwise entitled under the foregoing provisions to have a legal estate vested in him) who, at or immediately after the commencement of this Act, is entitled to an equitable interest capable of subsisting at law which has priority over any legal estate in the same land, shall be deemed to be entitled for the foregoing purposes to require that legal estate to be vested in him for an interest not exceeding in duration the equitable interest, and this enactment shall apply so as to give legal effect to any derivative equitable interests capable of subsisting at law which cannot be overreached by virtue of a subsisting trust for sale or a settlement.
- 5 Any legal estate acquired by virtue of this enactment shall be held upon the trusts and subject to the powers, provisions, rents, covenants, conditions, rights of redemption (as respects terms of years absolute) and other rights, burdens and obligations (if any) corresponding to the limitations, trusts, powers, provisions, rents, covenants, conditions, rights of redemption and other rights, burdens, and obligations (if any) to, upon and subject to which the equitable interest (if any) which is extinguished by the acquisition of the legal estate would have been held immediately after the

commencement of this Act, if it had not been extinguished, or if no interest is extinguished then upon or subject to which the estate acquired ought to go or be held.

- 6 Under the provisions of this enactment the legal estate affected shall vest:—
- (a) Where at the commencement of this Act there is a mortgage (not being an equitable charge unsecured by any estate), so as to give legal effect by way of demise or subdemise to the mortgage in accordance with Part I. of this Act;
 - (b) Where the land is at the commencement or by virtue of this Act subject or is made subject to a trust for sale, in the trustees for sale (including personal representatives holding land on trust for sale) but subject to any mortgage term subsisting or created by this Act;
 - (c) Where at the commencement or by virtue of this Act the land is settled, in the personal representative (if any) in whom the land may be vested or in the tenant for life of full age or statutory owner (entitled to require a vesting deed to be executed in his favour) as the case may require, but subject to any mortgage term subsisting or created by this Act;
 - (d) In any case to which paragraphs (b) and (c) do not apply in the person of full age who, immediately after the commencement of this Act, would have been entitled (subject to the payment of costs and any customary payments) to require the legal estate to be vested in him, but subject to any mortgage term subsisting or created by this Act.
- 7 If and when any person is registered as proprietor of land in a compulsory area after the commencement of this Act, then this enactment shall apply to any legal estate in the land expressed to be conveyed or created in favour of a purchaser or lessee before the commencement of this Act which failed to pass or to be created by reason of the omission of the purchaser or lessee to be registered as proprietor of the land under the Land Transfer Acts 1875 and 1897 and shall operate to vest that legal estate in the person so registered as proprietor on his registration, but subject to any mortgage term subsisting or created by this Act.
- 8 Nothing in this Part of this schedule shall operate—
- (a) To vest in a mortgagee of a term of years absolute any nominal leasehold reversion which is held in trust for him subject to redemption ; or
 - (b) To vest in a mortgagee any legal estate, except a term of years absolute; or
 - (c) To vest any legal estate in a person for an undivided share; or
 - (d) To vest any legal estate in an infant; or
 - (e) To affect, prejudicially the priority of any mortgage or other incumbrance subsisting at the commencement of this Act; or
 - (f) To render invalid any limitation or trust which would have been capable of taking effect as an equitable limitation or trust; or
 - (g) To vest in a purchaser (save as provided in the last preceding clause) or his personal representatives any legal estate which he has contracted to acquire and in regard to which a contract (including an agreement to create a legal mortgage) is pending at the commencement of this Act, although the consideration may have been paid or satisfied and the title accepted, or to render unnecessary the conveyance of such estate.
- 9 No stamp duty shall become payable by reason only of any vesting surrender or release effected by this enactment.

PART II

ENFORCEMENT OF EQUITABLE INTERESTS AND POWERS.

(1) All equitable interests and powers in or over land (whether created before or after any disposition on trust for sale or any vesting instrument affecting the legal estate) shall be enforceable against the personal representative (but subject to his rights and powers for purposes of administration), trustees for sale, tenant for life of full age, or statutory owner of the legal estate affected in manner following (that is to say):—

- (i) The trustees for sale (but in the case of personal representatives without prejudice to their rights and powers for purposes of administration) shall stand possessed of the net proceeds of sale after payment of costs and of the net rents and profits of the land until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the same according to their respective priorities:
- (ii) Where, by reason of the exercise of any equitable power or under any trust affecting the proceeds of sale, any principal sum is required to be raised, or any person of full age becomes entitled to require a legal estate in the land to be vested in him in priority to the trust for sale, then, unless the claim is satisfied out of the net proceeds of sale, the trustees for sale shall (if so requested in writing) be bound to transfer or create such legal estates, to take effect in priority to the trust for sale, as may be required for raising the money (by way of demise or subdemise, or by charge by way of legal mortgage) or for giving legal effect to the rights of the person so entitled:

Provided that, if the proceeds of sale are held in trust for persons of full age in undivided shares absolutely (free from incumbrances affecting undivided shares), those persons shall not be entitled to require the land to be conveyed to them in undivided shares, but may (subject to legal effect being given by demise or subdemise, or by charge by way of legal mortgage, to incumbrances affecting the entirety) require the same to be vested in any of them (not exceeding four) as joint tenants on trust for sale; and if the conveyance purports to transfer the land to any of them in undivided shares or to more than four such persons, it shall operate only as a transfer to them or (if more than four) to the four first named therein as joint tenants on trust for sale with full power to postpone the sale:

- (iii) The tenant for life of full age or statutory owner (including a personal representative where the settled land is vested in him, but without prejudice to his rights and powers for purposes of administration) shall stand possessed of the settled land and the income thereof upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the settled land or the income thereof according to their respective priorities:
- (iv) Where, by virtue of any trust or by reason of the exercise of an equitable power affecting the settled land, any principal sum is required to be raised, or any person of full age becomes entitled to require a legal estate in the settled land to be vested in him in priority to the settlement, then (unless where a principal sum is raiseable the claim is discharged out of capital money) the tenant for life of full age, statutory owner, or personal representative in whom the settled land is vested shall be bound (if so requested in writing) to transfer or create such legal estates, to take effect in priority to the settlement,

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as may be required for raising the money (by demise or subdemise, or by charge by way of legal mortgage) or for giving ' effect to the rights of the person so entitled:

Provided that, so long as the settlement remains subsisting, no legal estate shall be transferred or created for the purposes aforesaid except to satisfy or give effect to a claim which (by reason of money being actually raised, or of an exercise of an equitable power having priority to all the limitations or trusts of the settlement) ought no longer to be capable of being overreached under the powers of the Settled Land Acts.

- (2) If the legal estate is not vested in personal representatives or in trustees for sale, and there are no trustees of a settlement to whom capital money can be lawfully paid, then the estate owner shall be liable in equity to give effect to the equitable interests and powers affecting his estate of which he has notice according to their respective priorities, and, if any capital money arises under the transaction, shall not, by virtue of this Act, be entitled to overreach the same in favour of a purchaser with notice thereof, until such trustees as aforesaid are appointed, without the concurrence of the persons interested. This provision shall not affect the priority or powers of a mortgagee by demise or subdemise, or a chargee by way of legal mortgage.
- (3) Legal effect may be given, by means of a mortgage by demise or subdemise, or a charge by way of legal mortgage, to an agreement for a mortgage a charge or lien (whether or not arising by operation of law) if the agreement, charge or lien ought, in accordance with the foregoing provisions, to have priority, over the trust for sale or the settlement.
- (4) Where, by reason of a right of reverter, statutory or otherwise, or an equitable right of entry taking effect or otherwise, a person becomes entitled to require a legal estate to be vested in him, then and in any such case the estate owner whose estate is affected shall be liable in equity to convey or create such legal estates as the case may require.
- (5) If any question arises whether any and what legal estate ought to be transferred or created as aforesaid, any person interested may apply to the court for directions in the manner provided by this Act.
- (6) If the trustees for sale, tenant for life of full age, statutory owner or personal representatives or other estate owners refuse or neglect for one month after demand to transfer or create any such legal estate, or if by reason of their being out of the United Kingdom, or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the transaction cannot otherwise be effected, or cannot be effected without undue delay or expense, the court may, on the application of any person interested, make a vesting order transferring or creating a legal estate in the manner provided by this Act.

SECOND SCHEDULE

Section 9.

PROVISIONS AS TO MORTGAGES.

Existing freehold mortgages to take effect by way of demise.

- 1 (1) All land vested in a first or only mortgagee for an estate in fee simple, whether legal or equitable, shall, from and after the commencement of this Act, vest in the first

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or only mortgagee for a term of three thousand years from such commencement, without impeachment of waste, but subject to a provision for cesser corresponding to the right of redemption which, at such commencement, was subsisting with respect to the fee simple.

- (2) All land vested in a second or subsequent mortgagee for an estate in fee simple (whether legal or equitable) shall, from and after the commencement of this Act, vest in the second or subsequent mortgagee for a term one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee, without impeachment of waste, but subject to the term or terms vested in such first or other prior mortgagee and subject to a provision for cesser corresponding to the right of redemption which, at such commencement, was subsisting with respect to the fee simple.
- (3) The estate in fee simple which, at the commencement of this Act, was vested in any such mortgagee shall, from and after such commencement, vest in the mortgagor or tenant for life of full age, statutory owner, trustee for sale, personal representative, or other person of full age who, if all money owing on the security of the mortgage and all other mortgages or charges (if any) had been discharged immediately after the commencement of this Act, would have been entitled to have the fee simple conveyed to him, but subject to any mortgage term created by this section or otherwise and to the money secured by any such mortgage or charge.
- (4) If a sub-mortgage (by conveyance of the fee simple) is subsisting at the commencement of this Act, the principal mortgagee shall take the principal term created by subsections (1) or (2) of this section (as the case may require) and the sub-mortgagee shall take a derivative term less by one day than the term so created, without impeachment of waste, subject to a provision for cesser corresponding to the right of redemption subsisting under the sub-mortgage.
- (5) This section applies to land enfranchised by this Act as well as to land which was freehold before the commencement of this Act, and whether or not the land is registered under the Land Transfer Acts, or the mortgage is made by way of trust for sale or otherwise.
- (6) Any mortgage to which this section applies may, by a declaration in writing to that effect by the mortgagee, be converted into a charge by way of legal mortgage, in which case the mortgage term shall be extinguished in the inheritance and the mortgagee shall have the same protection, powers, and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if the mortgage term had remained subsisting. The power conferred by this subsection may be exercised by a mortgagee notwithstanding that he is a trustee or personal representative.
- (7) Nothing in this section or in any such declaration shall affect the priority of any mortgagee or his right to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage.
- (8) This section does not apply unless a right of redemption is subsisting at the commencement of this Act.

Existing leasehold mortgages to take effect by sub-demise.

- 2 (1) All leasehold land vested in a first or only mortgagee by way of assignment of a term of years absolute shall, from and after the commencement of this Act, vest in

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the first or only mortgagee for a term equal to the term assigned by the mortgage, less the last ten days thereof, but subject to a provision for cesser corresponding to the right of redemption which at such commencement was subsisting with respect to the term assigned.

- (2) All leasehold land vested in a second or subsequent mortgagee by way of assignment of a term of years absolute (whether legal or equitable) shall, from and after the commencement of this Act, vest in the second or subsequent mortgagee for a term one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee if the length of the last-mentioned term permits, and in any case for a term less by one day at least than the term assigned by the mortgage, but subject to the term or terms vested in such first or other prior mortgagee, and subject to a provision for cesser corresponding to the right of redemption which, at the commencement of this Act, was subsisting with respect to the term assigned by the mortgage.
- (3) The term of years absolute which was assigned by any such mortgage shall, from and after the commencement of this Act, vest in the mortgagor or tenant for life of full age, statutory owner, trustee for sale, personal representative, or other person of full age who, if all the money owing on the security of the mortgage and all other mortgages or charges (if any) had been discharged immediately after the commencement of this Act, would have been entitled to have the term assigned or surrendered to him, but subject to any derivative mortgage term created by this section or otherwise and to the money secured by any such mortgage or charge.
- (4) If a sub-mortgage (by assignment of a term) is subsisting at the commencement of this Act, the principal mortgagee shall take the principal derivative term created by subsections (1) or (2) of this section or the derivative term created by his mortgage (as the case may require), and the sub-mortgagee shall take a derivative term less by one day than the term so vested in the principal mortgagee, subject to a provision for cesser corresponding to the right of redemption subsisting under the sub-mortgage.
- (5) This section applies to perpetually renewable leaseholds, and to leaseholds for lives, which are by this Act converted into long terms, with the following variations, namely:—
 - (a) The term to be taken by a first or only mortgagee shall be ten days less than the term created by Part VII. of this Act:
 - (b) The term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee if the length of the last-mentioned term permits, and in any case for a term less by one day at least than the term created by Part VII. of this Act:
 - (c) The term created by Part VII. of this Act shall, from and after the commencement of this Act, vest in the mortgagor or tenant for life of full age, statutory owner, trustee for sale, personal representative, or other person of full age who, if all the money owing on the security of the mortgage and all other mortgages or charges (if any) had been discharged immediately after the commencement of this Act, would have been entitled to have the term assigned or surrendered to him, but subject to any derivative term created by this section or otherwise and to the money secured by any such mortgage or charge.
- (6) This section applies whether or not the leasehold land is registered under the Land Transfer Acts or the mortgage is made by way of trust for sale or otherwise.

- (7) Any mortgage to which this section applies may, by a declaration in writing to that effect by the mortgagee, be converted into a charge by way of legal mortgage, in which case the mortgage term shall be extinguished in the head term, and the mortgagee shall have the same protection, powers, and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if the mortgage term had remained subsisting. The power conferred by this subsection may be exercised by a mortgagee notwithstanding that he is a trustee or personal representative.
- (8) Nothing in this section or in any such declaration shall affect the priority of any mortgagee or his right to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage, but this section does not apply unless a right of redemption is subsisting at the commencement of this Act.

Mode of mortgaging freeholds.

- 3 (1) After the commencement of this Act, a legal mortgage of an estate in fee simple shall only be capable of being effected either by a demise for a term of years absolute, subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage, in which case the mortgagee shall have the same protection, powers, and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if a mortgage term for three thousand years without impeachment for waste had been thereby created in favour of the mortgagee.
- (2) Any purported conveyance of an estate in fee simple by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a demise of the land to the mortgagee for a term of years absolute, without impeachment for waste, but subject to cesser on redemption in manner following, namely :—
- (a) A first or only mortgagee shall take a term of three thousand years from the date of the mortgage :
- (b) A second or subsequent mortgagee shall take a term (commencing from the date of the mortgage) one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee:

And, in this subsection, any such purported conveyance as aforesaid includes an absolute conveyance with a deed of defeasance and any other assurance which (but for this subsection) would operate in effect to vest the fee simple in a mortgagee subject to redemption.

- (3) But where the mortgage includes fixtures or chattels personal the statutory power of sale and the rights to foreclose and take possession shall extend to the absolute or other interest therein affected by the charge.
- (4) This section applies whether or not the land is registered under the Land Transfer Acts or the mortgage is expressed to be made by way of trust for sale or otherwise ; and a first mortgagee shall have the same right to possession of documents as if his security included the fee simple.
- (5) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage or to lend money on mortgage of an estate in fee simple

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shall be construed as a power to mortgage the same for a term of years absolute, without impeachment for waste, or by a charge by way of legal mortgage or to lend on such security.

- (6) Nothing in this Act shall affect the rule of law that a legal term may be created to take effect in reversion expectant on a longer term.

Mode of mortgaging leaseholds.

- 4 (1) After the commencement of this Act, a legal mortgage of a term of years absolute shall only be capable of being effected either by a subdemise for a term of years absolute, less by one day at least than the term vested in the mortgagor, and subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage, in which case the mortgagee shall have the same protection, powers, and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if a subterm less by one day than the term vested in the mortgagor had been thereby created in favour of the mortgagee. And where a licence to subdemise by way of mortgage is required, such licence shall not be unreasonably refused.
- (2) Any purported assignment of a term of years absolute by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a subdemise of the leasehold land to the mortgagee for a term of years absolute, but subject to cesser on redemption, in manner following, namely:—
- (a) The term to be taken by a first or only mortgagee shall be ten days less than the term expressed to be assigned;
 - (b) The term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee if the length of the last mentioned term permits, and in any case for a term less by one day at least than the term expressed to be assigned :

And, in this subsection, any such purported assignment as aforesaid includes an absolute assignment with a deed of defeasance and any other assurance which (but for this subsection) would operate in effect to vest the term of the mortgagor in a mortgagee subject to redemption.

- (3) But where the mortgage includes fixtures or chattels personal the statutory power of sale and the rights to foreclose and take possession shall extend to the absolute or other interest therein affected by the charge.
- (4) This section applies whether or not the land is registered under the Land Transfer Acts, or the mortgage is made by way of sub-mortgage of a term of years absolute, or is expressed to be by way of trust for sale or otherwise, and a first mortgagee shall have the same right to possession of documents as if his security had been effected by assignment.
- (5) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage or to lend money on mortgage of a term of years absolute by way of assignment shall be construed as a power to mortgage the same by subdemise for a term of years absolute or by a charge by way of legal mortgage, or to lend on such security.

Realisation of freehold mortgages.

- 5
- (1) Where a mortgagee of a term of years absolute, limited out of an estate in fee simple or a chargee by way of legal mortgage affecting an estate in fee simple sells under his statutory or express power of sale, the conveyance by him (made after the commencement of this Act) shall operate to vest the fee simple in the land conveyed in the purchaser (subject to any mortgage term or charge by way of legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured), and thereupon the mortgage term (if any) and any subsequent mortgage term or charge by way of legal mortgage shall merge or be extinguished as respects the land conveyed ; and such conveyance may, as respects the fee simple, be made in the name of the estate owner in whom it is vested.
 - (2) Where any such mortgagee obtains an order for foreclosure absolute, the order shall operate to vest the fee simple in him (subject to any mortgage term or charge by way of legal mortgage having priority to the mortgage in right of which the foreclosure is obtained and to any money thereby secured), and thereupon the mortgage term (if any) shall thereby be enlarged into the fee simple, and any subsequent mortgage term or charge by way of legal mortgage bound by the order shall thereupon be extinguished.
 - (3) Where any such mortgagee acquires a title under the Limitation Acts, he, or the persons deriving title under him, may enlarge the mortgage term into a fee simple under the provisions of section sixty-five of the Conveyancing Act, 1881, discharged from any mortgage term or charge by way of legal mortgage affected by the title so acquired, or in the case of a chargee by way of legal mortgage may by deed declare that the fee simple is vested in him discharged as aforesaid, and the same shall vest accordingly.
 - (4) In the case of a sub-mortgage by subdemise of a long term (less a nominal period) itself limited out of an estate in fee simple, the foregoing provisions of this section shall operate as if the derivative term (if any) created by the sub-mortgage had been limited out of the fee simple, and so as to enlarge the principal term and extinguish the derivative term created by the sub-mortgage as aforesaid.
 - (5) This section applies whether the mortgage was created before or after the commencement of this Act, but shall not operate to confer a better title to the fee simple than would have been acquired if the same had been conveyed by the mortgage (being a valid mortgage) and the restrictions imposed by this Act in regard to the effect and creation of mortgages were not in force, and all prior mortgages (if any) had been created by demise or by charge by way of legal mortgage.

Realisation of leasehold mortgages.

- 6
- (1) Where a mortgagee of a term of years absolute limited out of another term of years absolute or a chargee by way of legal mortgage affecting any such term sells under his statutory or express power of sale, the conveyance by him (made after the commencement of this Act) shall operate to convey not only the mortgage term, if any, but also (unless expressly excepted) the leasehold reversion affected by the mortgage to the purchaser (subject to any mortgage term or charge by way of legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured) and the mortgage term, if any, and any subsequent mortgage term or charge by way of legal mortgage shall, subject to any express provision to the contrary contained in the conveyance, merge in such leasehold reversion or be extinguished therein; and such conveyance may, as respects the

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leasehold reversion, be made in the name of the estate owner in whom it is vested. And where a licence to assign is required on a sale by a mortgagee, such licence shall not be unreasonably refused.

- (2) Where any such mortgagee or chargee by way of legal mortgage obtains an order for foreclosure absolute, the order shall (unless it otherwise provides) operate (without giving rise to a forfeiture for want of a licence to assign) to vest the leasehold reversion affected by the mortgage and any subsequent mortgage term in him, and thereupon the mortgage term and any subsequent mortgage term or charge by way of legal mortgage bound by the order shall (subject to any express provision to the contrary contained in the order) merge in such leasehold reversion or be extinguished therein.
- (3) Where any such mortgagee or chargee by way of legal mortgage acquires a title under the Limitation Acts, he, or the persons deriving title under him, may by deed declare that the leasehold reversion affected by the mortgage and any subsequent mortgage term affected by the title so acquired shall vest in him, free from any right of redemption which is barred, and the same shall (without giving rise to a forfeiture for want of a licence to assign) vest accordingly, and thereupon the mortgage term, if any, and any other mortgage term or charge by way of legal mortgage affected by the title so acquired shall (subject to any express provision to the contrary contained in the deed) merge in such leasehold reversion or be extinguished therein.
- (4) In the case of a sub-mortgage by subdemise of a term (less a nominal period) itself limited out of a leasehold reversion, the foregoing provisions of this section shall operate as if the derivative term created by the sub-mortgage had been limited out of the leasehold reversion and so as (subject as aforesaid) to merge the principal mortgage term therein as well as the derivative term created by the sub-mortgage.
- (5) This section shall take effect without prejudice to any incumbrance or trust affecting the leasehold reversion which has priority over the mortgage in right of which the sale, foreclosure, or title is made or acquired, and shall apply whether the mortgage is executed before or after the commencement of this Act, but shall not apply where the mortgage term does not comprise the whole of the land included in the leasehold reversion unless the rent (if any) payable in respect of that reversion has been apportioned as respects the land affected, or the rent is of no money value, or no rent is reserved, and unless the lessees covenants and conditions (if any) have been apportioned, either expressly or by implication, as respects the land affected.

Realisation of equitable charges by the court.

- 7 (1) Where an order for sale is made by the court in reference to an equitable charge on land (not secured by a legal term of years absolute or by a charge by way of legal mortgage) the court may, in favour of a purchaser, make a vesting order conveying the land or creating a legal term of years absolute therein, or may appoint a person to convey the land or create a legal term of years absolute, as the case may require, in like manner as if the charge had been created by demise or subdemise or by a charge by way of legal mortgage pursuant to this Act, but without prejudice to any incumbrance having priority to the charge unless the incumbrancer consents to the sale.
- (2) This section applies to charges and liens made or arising before or after the commencement of this Act, but not to charges which have been over-riden by reason

of no land charge having been registered or otherwise, under the powers conferred by this Act before a *lis pendens* has been registered in respect of the proceedings.

Consolidation, tacking and further advances.

- 8
- (1) Nothing in Part I of this Act shall, in reference to mortgages, affect any right of consolidation subsisting at the commencement of this Act or render inoperative a stipulation, in relation to any mortgage made before or after such commencement that section seventeen of the Conveyancing Act, 1881, shall not apply thereto.
 - (2) Nothing in Part I of this Act shall affect any priority acquired before the commencement of this Act by tacking, or in respect of further advances made, without notice of a subsequent incumbrance or by arrangement with the subsequent incumbrancer.
 - (3) After the commencement of this Act, the right of a prior mortgagee to make further advances to rank in priority to subsequent mortgages (whether legal or equitable) without an arrangement being made with the subsequent mortgagees, shall depend on whether he had notice of the subsequent mortgages at the time when the advance was made by him.
 - (4) In reference to the making of further advances after the commencement of this Act a mortgagee shall not be deemed to have notice of an incumbrance merely by reason that it was registered as a land charge or in a local deeds registry, if it was not so registered at the date of the original advance or when the last search (if any) was made, which last happened, but in other respects the registration in a deeds registry shall operate as notice of the incumbrance as respects land within the jurisdiction of the local registry.
 - (5) This section applies to mortgages of freehold and leasehold land made before or after the commencement of this Act, but not to charges registered under the Land Transfer Acts.

As to taking possession and as to undivided shares and the ceasing of mortgage terms.

- 9
- (1) Nothing in Part I. of this Act shall affect prejudicially the right of a mortgagee of land (whether or not his charge is secured by a legal term of years absolute) to take possession of the land, or to appoint a receiver of the income thereof.
 - (2) A mortgagee of an undivided share in land shall have the same power to sell his share in the proceeds of sale of the land and in the rents and profits thereof until sale, as, independently of Part I. of this Act, he would have had in regard to the share in the land ; and shall also have a right to require the trustees for sale in whom the land is vested to account to him for the income attributable to that share or to appoint a receiver to receive the same from such trustees corresponding to the right which, independently of Part I. of this Act, he would have had to take possession or to appoint a receiver of the rents and profits attributable to the same share.
 - (3) Without prejudice to the right of a tenant for life or other person having only a limited interest in the equity of redemption to require a mortgage to be kept alive by transfer or otherwise, a mortgage term shall, after the money secured by the mortgage has been discharged, become a satisfied term and shall cease.

Status: This is the original version (as it was originally enacted).

THIRD SCHEDULE

Section 10.

PROVISIONS AS TO UNDIVIDED SHARES.

Vesting of land held in undivided shares in trustees on trust for sale, and repeal of the Partition Acts.

1 Where, at the commencement of this Act, land is held at law or in equity in undivided shares vested in possession the following provisions shall apply :—

- (1) If the entirety of the land is vested in trustees or personal representatives (subject or not to incumbrances affecting the entirety or an undivided share) in trust for persons entitled in undivided shares, it shall be held by, or vest free from incumbrances affecting undivided shares or not secured by a legal term of years absolute (created by this Act or otherwise) or by a charge by way of legal mortgage in such trustees or personal representatives (but in the latter case subject to their rights and powers for purposes of administration) upon trust to sell the same or any part thereof (with full power to postpone the sale) and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings upon such trusts, and subject to such powers and provisions as may be requisite for giving effect to the rights of the persons (including incumbrancers of undivided shares or whose incumbrance is not secured by a legal term of years absolute or by a charge by way of legal mortgage) interested in the shares, which trusts, powers, and provisions (including the trust for sale) are in this section referred to as "the statutory trusts" :
- (2) If the entirety of the land (not being settled land) is vested absolutely and beneficially in not more than four persons of full age entitled to the same in undivided shares (subject or not to incumbrances affecting the entirety but free from incumbrances affecting undivided shares), it shall, by virtue of this Act, vest in them as joint tenants upon the statutory trusts:
- (3) If the entirety of the land is settled land (subject or not to incumbrances affecting the entirety or an undivided share) held under one and the same settlement, it shall, by virtue of this Act, vest, free from incumbrances affecting undivided shares or not secured by a legal term of years absolute (created by this Act or otherwise) or by a charge by way of legal mortgage, in the trustees (if any) of the settlement as joint tenants upon the statutory trusts:

Provided that—

- (i) If there are no such trustees, then, pending their appointment, the land shall, by virtue of this Act, vest (free as aforesaid) in the Public Trustee upon the statutory trusts;
- (ii) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of persons interested to the extent of more than an undivided half of the land or the income thereof;
- (iii) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent;
- (iv) If, before the Public Trustee has accepted the trust, trustees of the settlement are appointed, the land shall, by virtue of this Act, vest (free as aforesaid) in them as joint tenants upon the statutory trusts;

Status: This is the original version (as it was originally enacted).

- (v) If, before the Public Trustee has accepted the trust, the persons having power to appoint new trustees are unwilling to make an appointment, or if the person having power to apply to the court under section thirty-eight of the Settled Land Act, 1882, neglects to make the application for at least three months after-being requested in writing so to do, or if the tenants for life of the undivided shares are unable to agree, then any person interested under the settlement may apply to the court under section thirty-eight aforesaid:
- (4) In any other case to which the foregoing provisions of this section, do not apply, the entirety of the land shall vest (free as aforesaid) in the Public Trustee upon the statutory trusts:

Provided that—

- (i) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of the persons interested to the extent of more than an undivided half of the land or the income thereof;
- (ii) After the Public Trustee had been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent;
- (iii) Any persons interested in more than an undivided half of the land or the income thereof may appoint new trustees in the place of the Public Trustee with the consent of any incumbrancers of undivided shares (but so that a purchaser shall not be concerned to see whether any such consent has been given) and vest the land in the persons so appointed (free as aforesaid) upon the statutory trusts; or such persons may (without such consent as aforesaid), at any time, whether or not the Public Trustee has accepted the trust, apply to the court for the appointment of trustees of the land, and the court may make such order as it thinks fit, and if thereby trustees of the land are appointed, the same shall, by virtue of this Act, vest (free as aforesaid) in the trustees as joint tenants upon the statutory trusts;
- (iv) If the persons interested to the extent of more than an undivided half of the land or the income thereof do not either request the Public Trustee to act, or (whether he refuses to act or has not been requested to act) apply to the court for the appointment of trustees in his place, within three months from the time when they shall have been requested in writing by any person interested so to do, then and in any such case any person interested may apply to the court for the appointment of trustees in the place of the Public Trustee, and for an order vesting the land in such trustees (free as aforesaid) upon the statutory trusts, and the court may make such order as it thinks fit;
- (5) The court or the Public Trustee may act on prima facie evidence given by affidavit or by statutory declaration as respects the undivided shares without investigating the title to the land :
- (6) Where at the commencement of this Act the entirety of the land is vested in undivided shares in the same mortgagees and the rights of redemption are the same as might have been subsisting if the entirety had been mortgaged by an owner before the undivided shares were created, then the land shall, by virtue of this Act, vest in the mortgagees as joint tenants for a legal term of years absolute (in accordance with this Act) subject to cesser on redemption by the trustees for sale in whom the equity of redemption is vested by this Act, and for the purposes of this section the mortgage shall be deemed an incumbrance affecting the entirety:

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- (7) This section does not prejudice incumbrancers whose incumbrances affect the entirety of the land at the commencement of this Act, but the land shall vest in them for legal terms of years absolute in accordance with this Act in priority to the statutory trusts ; and in this section " incumbrance " does not include land tax, tithe rentcharge, or any similar charge on the land not created by an instrument:
- (8) The trust for sale and powers of management" vested in the persons who hold the entirety of the land on trust for sale shall (save as hereinafter mentioned) be exercisable with the consent of any incumbrancer (of full age) affected whose incumbrance is divested by this section, but a purchaser shall not be concerned to see or inquire whether any such consent has been given nor, where the incumbrancer is not in possession, shall any such consent be required if, independently of Part I. of this Act, the transaction would have been binding on him, had the same been effected by the mortgagor:
- (9) This section does not apply to land in respect of which a subsisting contract for sale (whether made under an order in a partition action or by or on behalf of all the tenants in common or coparceners) is in force at the commencement of this Act if the contract is completed in due course, nor to land in respect of which a partition action is pending at such commencement if an order for a partition or sale is subsequently made in such action :
- (10) The Partition Acts, 1868 and 1876, are hereby repealed without prejudice to any proceedings thereunder commenced before the commencement of this Act, and to the jurisdiction of the court to make any orders in reference thereto, and subject to the following provisions, namely:—
- (i) In any proceedings, and at any stage thereof, any person or persons interested individually or collectively to the extent of one half or upwards in the land to which the proceedings relate, may apply to the court for an order staying such proceedings ;
 - (ii) The court may upon such application make an order staying the proceedings as regards the whole or any part, not being an undivided share, of the land;
 - (iii) As from the date of such order the said Acts shall cease to apply to the land affected by the order and the provisions of this Act shall apply to such last-mentioned land ;
 - (iv) The court may by such order appoint trustees of the land and the same shall by virtue of this Act vest (free as aforesaid) in the trustees as joint tenants upon the statutory trusts ;
 - (v) The court may order that the costs of the proceedings and of the application shall be raised by the trustees, by mortgage of the land or any part thereof (by demise or subdemise or by charge by way of legal mortgage), and paid either wholly or partially into court or to the trustees;
 - (vi) The court may act on such evidence as appears to be sufficient, without investigating the title to the land.

Undivided shares (after this Act) to take effect behind a trust for sale of the land.

- 2 (1) If and when, after the commencement of this Act, settled land is held in trust for persons entitled in possession under a settlement in undivided shares, the trustees of the settlement may require the tenant for life of full age or other statutory owner, or the personal representative in whom the land is vested, to convey the settled land to them (if not already vested in them), or assent to the same vesting in them as joint

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tenants at the cost of the trust estate, in like manner as if, immediately before the limitation creating the undivided shares, the land had been limited to the trustees on trust for sale, and in the meantime the land shall be held on the same trusts as would have been applicable thereto if it had been conveyed to the trustees.

- (2) If and when the settled land so held in undivided shares becomes vested in the trustees of the settlement, it shall be held by them upon trust to sell the same or any part thereof (but not so as to prejudice any interest in tail in the net proceeds of sale) with full power to postpone the sale, and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale, after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the rights of the persons interested in the shares, which trusts, powers, and provisions (including the trust for sale) are in this section referred to as the "statutory trusts."
- (3) If the tenant for life of full age, statutory owner, or personal representative refuses or neglects for one month after demand in writing to convey the settled land so held in undivided shares in manner aforesaid, or if by reason of any such person being out of the United Kingdom or being unable to be found, or for any other reason the court is satisfied that the conveyance cannot otherwise be made, or cannot be made without undue delay or expense, the court may, on the application of the trustees of the settlement, make an order vesting the settled land in them on the statutory trusts in the manner provided by this Act.
- (4) Where undivided shares in land, created before the commencement of this Act, fall into possession after such commencement, the foregoing provisions of this section shall apply, and accordingly the land shall thereupon be conveyed to trustees for sale as joint tenants, and in the meantime shall be held on the same trusts as if it had been so conveyed.
- (5) A devise, bequest, or testamentary appointment of land to two or more persons in undivided shares shall operate in equity as a devise or bequest of the land to the trustees (if any) of the will for the purposes of the Settled Land Acts, or, if no such trustees are appointed, then to the personal representatives of the testator, and in each case (but without prejudice to the rights and powers of the personal representatives for purposes of administration) upon the statutory trusts.
- (6) After the commencement of this Act an undivided share in land shall not be capable of being created except under a settlement; but this subsection does not apply to a declaration of trust of the proceeds of sale of land which is subject to a trust for sale.
- (7) Where, after such commencement, land is expressed to be conveyed to persons of full age in undivided shares, the conveyance shall (notwithstanding anything to the contrary in this Act) operate as if the land had been expressed to be conveyed to the grantees, if four or less, or if more than four then to the four first named in the conveyance, as joint tenants upon the statutory trusts and so as to give effect to the rights of the persons who would have been entitled to the shares had the conveyance been valid, save that where the conveyance is made by way of mortgage the land shall vest in the grantees for a term of years absolute (as provided by this Act) or in the four first named, as joint tenants subject to cesser on redemption in like manner as if the mortgage money had belonged to them on a joint account, but without prejudice to the beneficial interests in the mortgage money and interest.

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Joint tenancies.

- 3 (1) Where a legal estate (not being settled land) is vested in joint tenants beneficially and any tenant desires to sever the joint tenancy in equity, he may give to the other or others a notice in writing of such desire or do such other acts or things as would in the case of personal estate have been effectual to sever the tenancy in equity, and thereupon the land shall be held by them as joint tenants on trust for sale with full power to postpone the sale and the net proceeds of sale and the net rents and profits until sale shall be held upon the trusts which would have been requisite for giving effect to the beneficial interests if there had been an actual severance. Section sixty-seven of the Conveyancing Act, 1881, shall apply to any such notice.
- (2) From and after the commencement of this Act, no severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise, but this subsection does not affect the right of a joint tenant to release his interest to the other or others, or the right to sever a joint tenancy in an equitable interest (whether or not the legal estate is vested in the joint tenants) but when so vested the land shall be held by the joint tenants on trust for sale.
- (3) Where a legal estate (not being settled land) is held in trust for any persons as joint tenants, the same shall be held on trust for sale, with full power to postpone the sale, in like manner as if the persons beneficially entitled were tenants in common, but not so as to sever their joint tenancy in equity.
- (4) From and after the commencement of this Act, every tenancy by entireties shall be converted into a joint tenancy, and in any disposition made or coming into operation after such commencement, a husband and wife shall, for all purposes of acquisition of any interest in property, be treated as two persons.

Rules of court.

- 4 Rules of court may be made for the purpose of giving effect to the provisions in this schedule.

FOURTH SCHEDULE

Section 11.

DISPOSITIONS ON TRUST FOR SALE.

Appointment of trustees of dispositions on trust for sale.

- 1 (1) The persons having power to appoint new trustees of a conveyance on trust for sale shall be bound to appoint the same persons (if any) who are for the time being trustees of the settlement of the proceeds of sale, but a purchaser shall not be concerned to see whether the proper persons are appointed to be trustees of the conveyance of the land.
- (2) This section applies whether the settlement of the proceeds of sale or the conveyance on trust for sale comes into operation before or after the commencement of this Act.

Consents to the execution of a trust for sale ; as to giving effect to the wishes of the persons interested and protection to trustees.

- 2 (1) If the consent of more than two persons is made requisite by the disposition to the execution of a trust for sale of land then, in favour of a purchaser, the consent of any

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two of such persons to the execution of the trust or to the exercise of any statutory or other powers vested in the trustees for sale shall be deemed sufficient.

- (2) A consent by a person not sui juris or who becomes subject to disability expressed to be required by a disposition in the case of any such trust or power shall not in favour of a purchaser be deemed to be requisite to the execution of the trust or the exercise of the power; but the trustees shall, in any such case, obtain the separate consent of the parent or testamentary or other guardian of an infant or of the committee or receiver (if any) of a lunatic or defective.
- (3) The trustees for sale shall, so far as practicable, give effect to the wishes of the persons of full age for the time being beneficially interested in possession in the rents and profits of the land until sale, or, in case of dispute, of the majority (according to the value of their combined interests) of such persons, but a purchaser shall not be concerned to see that such wishes are complied, with.
- (4) Where there is a power to postpone the sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustees for sale (including personal representatives) shall not be liable in any way for postponing the sale, in the exercise of their discretion, for any indefinite period; nor shall a purchaser of a legal estate be concerned in any case with any directions respecting the postponement of the sale. A power to postpone sale shall be implied unless a contrary intention appears.
- (5) This section applies whether the trust for sale is created before or after the commencement or by virtue of this Act.

Purchaser not to be concerned with the trusts of the proceeds of sale if paid to two or more trustees or to a trust corporation.

- 3 (1) A purchaser of a legal estate from trustees for sale shall not be concerned with the trusts affecting the proceeds -of sale of land subject to a trust for sale (whether made to attach to such proceeds by virtue of this Act or otherwise), or affecting the rents and profits of the land until sale, whether or not those trusts are declared by the same instrument by which the trust for sale is created.
- (2) The proceeds of sale or other capital money arising under a disposition on trust for sale of land (and notwithstanding anything to the contrary in such disposition or in the settlement of the net proceeds) shall not, except where the trustee is a trust corporation, be paid to or applied by the direction of fewer than two persons as trustees of the disposition, but this subsection does not affect the right of a sole personal representative as such to give valid receipts for or direct the application of the proceeds of sale or other capital money aforesaid; nor, except where capital money arises on a transaction, render it necessary to have more than one trustee.

Powers of management given to trustees for sale, trust of rents and profits till sale, and provisions as to partition among persons interested in the proceeds of sale.

- 4 (1) Trustees for sale (with or without a power to : postpone the sale) shall, in relation to the land or to manorial incidents and to the proceeds of sale, have all the powers of a tenant for life, and of the trustees of a settlement, under the Settled Land Acts, and also in relation to the land the powers of management conferred by subsections (2) and (3) of section forty-two of the Conveyancing Act, 1881: and (subject to any express trust to the contrary) all capital money arising under the said powers shall

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(without prejudice to the rights and powers of a personal representative for purposes of administration) unless paid or applied for any purpose authorised by the Settled Land Acts, be applicable in the same manner as if the money represented proceeds of sale arising under the trust for sale.

- (2) Subject to any direction to the contrary in the disposition on trust for sale or in the settlement of the proceeds of sale, the net rents and profits of the land until sale, after keeping down costs of repairs and insurance and other outgoings, shall (without prejudice to the rights and powers of a personal representative as aforesaid) be paid or applied except so far as any part thereof may be liable to be set aside as capital money under the Settled Land Acts, in like manner as the income of investments representing the purchase money would be payable or applicable if a sale had been made and the proceeds had been duly invested.
- (3) Where the net proceeds of sale have under the trusts affecting the same become absolutely vested in persons of full age in undivided shares (whether or not such shares may be subject to a derivative trust) the trustees for sale may (with the consent of the persons, if any, of full age, not being annuitants, interested in possession in the net rents and profits of the land until sale) partition the land remaining unsold or any part thereof, and provide (by way of mortgage or otherwise) for the payment of any equality money, and, upon such partition being arranged, the trustees for sale shall give effect thereto by conveying the land so partitioned in severalty (subject or not to any mortgage term or charge by way of legal mortgage, created for raising equality money) to persons of full age and either absolutely or on trust for sale or, where any part, of the land becomes settled land by a vesting deed, or partly in one way and partly in another in accordance with the rights of the persons interested under the partition, but a purchaser shall not be concerned to see or inquire whether any such consent as aforesaid has been given :

Provided that—

- (a) If a share in the net proceeds is absolutely vested in an infant, the trustees for sale may act on his behalf and retain land (to be held on trust for sale) or other property to represent his share, and in other respects the foregoing power shall apply as if the infant had been of full age :
 - (b) If a share in the net proceeds belongs to a lunatic or defective, the consent of his committee or receiver shall be sufficient to protect the trustees for sale :
 - (c) If a share in the net proceeds is affected by an incumbrance the trustees for sale may either give effect thereto or provide for the discharge thereof by means of the property allotted in respect of such share, as may be considered expedient.
- (4) The powers conferred by subsection (1) of this section shall be exercised with such consents (if any) as would have been required on a sale under the trust for sale, and when exercised shall operate to overreach any equitable interests or powers which are by virtue of this Act made to attach to the net proceeds of sale as if created by a trust affecting those proceeds.
 - (5) If the trustees for sale refuse to sell or to exercise any of the powers conferred by this section, or the powers to delegate hereinafter conferred, any person interested may apply to the court for a vesting or other order for giving effect to the proposed transaction or for an order directing the trustees for sale to give effect thereto and the court may make such order as it thinks fit.

- (6) Where, at the commencement of this Act, an order made under section seven of the Settled Land Act, 1884, is in force then the person on whom any power is thereby conferred shall, while the order remains in force, exercise such power in the names and on the behalf of the trustees for sale in like manner as if the power had been delegated to him under this Act.
- (7) This section applies to dispositions on trust for sale coming into operation either before or after the commencement of this Act, or by virtue of this Act.
- (8) This section does not apply where there is a person having the powers of a tenant for life under paragraph (ix) of subsection (1) of section fifty-eight of the Settled Land Act, 1882.

Delegation of powers of management by trustees for sale.

- 5 (1) The powers of and incidental to leasing, accepting surrenders of leases and management, conferred on trustees for sale whether by this Act or otherwise, may, until sale of the land, be revocably delegated from time to time, by writing, signed by them, to any person of full age (not being merely an annuitant) for the time being beneficially interested (in possession) in the net rents and profits of the land during his life or for any less period : and in favour of a lessee such writing shall, unless the contrary appears, be sufficient evidence that the person named therein, is a person to whom the powers may be delegated, and the production of such writing shall, unless the contrary appears, be sufficient evidence that the delegation has not been revoked.
- (2) Any power so delegated shall be exercised only in the names and on behalf of the trustees delegating the same.
- (3) The persons delegating any power under this section shall not, in relation to the exercise or purported exercise of the power, be liable for the acts or defaults of the person to whom the power is delegated, but he shall, in relation to the exercise of the power by him, be deemed to be in the position and to have the duties and liabilities of a trustee.

FIFTH SCHEDULE

Section 12.

PROVISIONS RELATING TO SETTLEMENTS.

Authorised method of settling land inter vivos by " vesting " and " trust " deeds.

- 1 (1) After the commencement of this Act every settlement of land inter vivos shall be effected as follows, and in no other way, namely:—

There shall (save as hereinafter mentioned) be two deeds, one of which (in this Act referred to as " the vesting deed ") shall be a conveyance of the land, for the estate or interest the subject of the settlement, and shall appoint trustees for the purposes of the Settled Land Acts, and the other of which (in this Act referred to as " the trust deed ") shall declare the trusts affecting the settled land, appoint trustees for the purposes of the Settled Land Acts, and shall bear any ad valorem stamp duty which may be payable (whether by virtue of the conveyance or otherwise) in respect of the settlement.

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- (2) An agreement for the settlement of land by an estate owner, shall, and an agreement for the settlement of land by a person entitled to an equitable interest which is capable, when in possession, of subsisting at law, or to an entailed interest, shall, if and when the interest of the settlor is or becomes vested in possession, be deemed a contract to convey or create a legal estate, and effect shall be given thereto by a vesting deed and a trust deed in accordance with this section.
- (3) No undivided share in land can be made the subject of a settlement, but the entirety of the land shall be vested in trustees for sale, as provided by this Act, and any disposition purporting to make to such a settlement shall only operate as a settlement of a corresponding share of the net proceeds of sale and of the rents and profits until sale of the entirety of the land.
- (4) By the vesting deed the settled land shall be conveyed to the tenant for life of full age, or statutory owner (and if more than one as joint tenants) to be held upon the trusts declared concerning the same by the trust deed, and for giving effect to any equitable interests and powers; and the persons who are appointed as the trustees of the vesting deed shall be the same persons as are the trustees of the trust deed, and such persons are in this Act referred to as the trustees of the settlement.

Provided that, where the land is already vested in the tenant for life of full age or statutory owner, it shall be sufficient, without any other conveyance, if the vesting deed declares that the land is vested in him on the requisite trusts.

The contents of " vesting instruments, " and as to land acquired with capital money.

- 2 (1) Every vesting instrument for giving effect to a settlement or made on a change of ownership of settled land (in this Act referred to as a principal vesting instrument) shall contain the following statements or particulars, namely :—
 - (a) That the land is vested in the tenant for life of, full age or statutory owner upon the trusts from time to time affecting the settled land:
 - (b) The names of the persons who are the trustees of the settlement:
 - (c) The powers (if any) relating to the land expressly conferred by the settlement in extension of those conferred by the Settled Land Acts :
 - (d) The name of any person who has power to appoint new trustees of the settlement.
- (2) Where after the commencement of this Act land is acquired with capital money arising under a settlement, or in exchange for settled land, or a rentcharge is reserved on a grant of settled land, the land shall be conveyed to, and the rentcharge by virtue of this Act shall become vested in the tenant for life of full age or statutory owner, and the conveyance or grant shall be a supplemental vesting deed.
- (3) A supplemental vesting deed executed on the acquisition of land to be made subject to a settlement shall contain the following statements or particulars, namely:—
 - (a) That it is supplemental to a vesting instrument therein referred to being the last vesting instrument (other than a supplemental vesting deed) affecting land subject to the settlement:
 - (b) That the land conveyed is to be held upon and subject to the same trusts and powers as the land comprised in the principal vesting instrument:
 - (c) The names of the persons who are the trustees of the settlement:

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- (d) The name of any person who has power to appoint new trustees of the settlement.
- (4) A supplemental vesting deed reserving a rentcharge on at grant of settled land shall contain the following statements or particulars:—
 - (a) That the rentcharge is vested in the grantor and is subject to the settlement which, immediately before the grant, was subsisting with respect to the land out of which it was reserved :
 - (b) Particulars of the last principal vesting instrument affecting such land.
- (5) The statements or particulars required by this section may be incorporated by reference to an existing vesting instrument.
- (6) A vesting instrument shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein.
- (7) The acquisition of the land shall not operate to increase or multiply charges or powers of charging.

Vesting deeds, assents, or discharges, on change of ownership of the settled land or on the termination of the settlement.

- 3
- (1) If by reason of an infant attaining full age he becomes entitled to the settled land either as a tenant for life of full age or absolutely, he shall (notwithstanding any stipulation to the contrary) be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the same to him (but in the case of personal representatives subject to their right to require any death duties and costs to be provided for) by a vesting deed, assent or conveyance (as the case may require) at the cost of the trust estate.
 - (2) If by reason of the forfeiture, surrender, or determination of his beneficial interest under a settlement the person in whom the settled land is vested ceases to have the statutory powers of a tenant for life of full age, and any limitations of the settlement are still subsisting, he shall be bound forthwith to convey the settled land to the tenant for life of full age or statutory owner, by a vesting deed, at the cost of the trust estate.
 - (3) If by reason of the satisfaction or determination of all interests, powers, and charges, other than the estate and powers of a person of full age who has become absolutely entitled, the settlement is determined, either as to the whole or any part of the settled land, then the trustees of the settlement shall, at the cost of the trust estate, by deed declare that they are discharged from the trust, either as to the whole or any part of the land as the case may require, and thenceforth a purchaser of a legal estate shall be entitled to assume that such land has ceased to be settled land.
 - (4) If the trustees of the settlement, on being requested so to do by the person of full age who has become absolutely entitled, refuse to execute a deed of discharge, or if for any reason the discharge cannot be effected without undue delay or expense, such person may apply to the court for an order discharging the trustees, as respects the whole or any part of the settled land, and the court may make such order as it may think fit.
 - (5) This section applies whether the settlement comes into operation before or after the commencement .of by virtue of this Act.

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As to settlements created by will after this Act and as to settled land vested in a personal representative at the commencement of this Act.

- 4 (1) Where a settlement is created by the will of a person who dies after the commencement of this Act, the will shall, for the purposes of this Act, be deemed " the trust deed " and where settled land remains at the commencement of this Act vested in the personal representatives of a person who dies before such commencement, the settlement (including a will and a settlement deemed to be subsisting or to have been made by any person) shall, for the purposes of this Act, be deemed " the trust deed."
- (2) Subject to the rights and powers of the personal representatives for purposes of administration, and to their being satisfied that all death duties and costs will be provided for, they shall be bound (except during a minority) by a vesting assent in writing signed by them (which shall operate as a conveyance) to convey the settled land (and so as to bind any equitable interest or power which by virtue of this Act or otherwise is protected by the settlement) to the tenant for life of full age or statutory owner named therein, and, if more than one, as joint tenants at the cost of the trust estate.

Forfeiture and stamps.

- 5 (1) Any vesting effected under the powers conferred by this Act in relation to settled land shall not operate as a breach of covenant or condition against alienation or give rise to a forfeiture.
- (2) Nothing in this Act shall operate to impose any stamp duty on a vesting assent, nor shall any ad valorem stamp duty be payable in respect of a vesting deed or order made for giving effect to an existing settlement.

Devolution of settled land on a death.

- 6 (1) On the death, after the commencement of this Act, of a tenant for life of full age or statutory owner, or of the survivor of two or more of them, in whom the settled land was vested, the same shall devolve upon his personal representatives upon trust (subject to the personal representatives being satisfied that any death duties and costs will be provided for) to convey the settled land by a vesting assent to the tenant for life of full age or statutory owner or the person (if any) of full age who has become absolutely entitled thereto at the cost of the trust estate.
- (2) This section does not affect the right of the personal representatives to transfer or create such legal estates to take effect in priority to the settlement as may be required for giving effect to the obligations imposed on them by this Act.
- (3) This section applies to settlements coming into operation either before or after the commencement or by virtue of this Act.

Disputes as to vesting deeds and assents, and power to make vesting orders of settled land.

- 7 (1) If any question arises as to the person in whose favour a vesting deed or assent ought to be executed, or as to the contents thereof, the trustees of the settlement, personal representatives, or any person interested under the settlement may apply to the court for directions under section forty-four of the Settled Land Act, 1882.

- (2) If any person who is bound to execute a vesting instrument or in whom settled land is wrongly vested refuses or neglects to execute the requisite vesting deed or assent within one month after demand in writing, or if such person is outside the United Kingdom, or cannot be found, or it is not known whether he is alive or dead, or if for any reason the court is satisfied, that the vesting deed or assent cannot be executed, or cannot be executed without undue delay or expense, the court may, on the application of any person interested, make an order vesting the settled land in the tenant for life of full age or statutory owner or person (if any) of full age absolutely entitled, and the provisions of this Act relating to vesting instruments shall apply to any order so made which shall (if the land remains settled land) contain the like statements and particulars.
- (3) No stamp duty shall be payable in respect of a vesting order made in place of a vesting assent.

Existing settlements and instruments not complying with this Act to operate as "trust deeds."

- 8
- (1) Every settlement of land subsisting at the commencement or created by virtue of this Act, and every settlement of land which after the commencement of this Act is deemed to have been made by any person, and every instrument which under the Settled Land Acts is deemed to be a settlement, and every instrument inter vivos intended to create a settlement which is executed after the commencement of this Act and does not comply with the requirements of this Act, shall, for the purposes of this Act, be deemed a "trust deed," and if a legal estate is conveyed by any such instrument as last aforesaid the estate owner shall hold the legal estate on trust to execute a vesting deed in the manner required by this Act.
 - (2) Until a vesting instrument is executed or made pursuant to this Act in respect of the settled land, any purported disposition thereof inter vivos shall not take effect at law, except in favour of a purchaser of a legal estate without notice of any trust, but, save as aforesaid shall operate only as a contract for valuable consideration to carry out the transaction after the requisite vesting instrument has been obtained, and a purchaser of a legal estate shall not be concerned therewith unless the contract is registered as a land charge.
 - (3) This section does not apply to land subject to an immediate trust for sale, with or without a power to postpone the sale, nor to settled land vested in personal representatives, but save as aforesaid applies to a will (creating a settlement) of a person who dies before the commencement of this Act.

Vesting deeds and orders for giving effect to existing settlements and trust deeds inter vivos.

- 9
- (1) In the case of every settlement of land subsisting at the commencement or created by virtue of this Act (whether or not the settled land is already vested in the trustees of the settlement), as soon as practicable after such commencement, and, in the case of every settlement deemed to have been made by any person after the commencement of this Act, and of every instrument which after such commencement is deemed to be a settlement, and of every instrument inter vivos intended to create a settlement which is executed after the commencement of this Act, and does not comply with the requirements of this Act, as soon as practicable after such settlement or instrument takes effect, the trustees (if any) of the settlement for the purposes of the Settled Land Acts shall, on the request of a tenant for life of full age or statutory owner, and at the cost of the trust estate, execute a vesting deed (containing the proper particulars)

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declaring that the settled land shall vest or is vested in the tenant for life of full age or statutory owner named therein (including themselves if they are the statutory owners), and such deed shall operate to convey or vest the settled land (so as to bind any equitable interest or power which by virtue of this Act or otherwise is protected by the settlement) to or in the tenant for life of full age or statutory owner named therein, and, if more than one, as joint tenants.

- (2) In the case of a base fee whether or not the reversion is in the Crown, or of a fee determinable whether by limitation or condition, or of an estate tail which by Act of Parliament is incapable of being barred or defeated (whether the reversion is in the Crown or not), the entire fee simple is settled land, and the instrument creating the estate tail, or determinable fee is the settlement, and the reversion or right of reverter upon the cesser of such base fee, determinable fee, or estate tail shall be deemed to be an estate limited by the settlement, and this subsection shall hind the Crown.
- (3) If there are no trustees of the settlement, then (in default of a person able and willing to appoint such trustees) an application shall be made to the court under section thirty-eight of the Settled Land Act, 1882, by the tenant for life of full age or statutory owner, or any other person interested, for the appointment of such trustees.
- (4) If default is made in the execution of any such vesting deed, the provisions of this Act relating to vesting orders of settled land shall apply in like manner as if the trustees of the settlement were persons in whom the settled land is wrongly vested.
- (5) In the case of settlements subsisting at the commencement of this Act, all the estates, interests, and powers thereby limited, which are not by this Act otherwise converted into equitable interests or powers, shall, as from the date of the vesting deed or order, take effect only in equity.
- (6) The settlement subsisting at the commencement of this Act and any instrument whereby land has been conveyed to the uses or upon the trusts of the settlement shall form part of the title of the estate owner of the settled land so far only as the statements and particulars in any vesting instrument may be made by reference thereto and for no other purpose.
- (7) This section does not affect the powers and duties of personal representatives in regard to settled land vested in them at the commencement of this Act.

Restrictions on dispositions where Settled Land Act trustees as appointed.

- 10 (1) Where the last or only principal vesting instrument appoints trustees for the purposes of the Settled Land Acts, and such trustees have not been discharged, then—
 - (a) Any disposition by the tenant for life of full age or statutory owner of the settled land, other than a disposition authorised by the Settled Land Acts (including any extended powers mentioned in the vesting instrument) or by any other statute, shall be void, except for the purpose of conveying or creating such equitable interests as he has (in right of his equitable interests and powers under the settlement) power to convey or create ; and
 - (b) If any capital money is payable in respect of a transaction, a conveyance to a purchaser of the settled land shall only take effect under the Settled Land Acts if the capital money is paid to or by the direction of the trustees of the settlement or into court; and
 - (c) Notwithstanding anything to the contrary in the vesting instrument, or settlement, capital money shall not, except where the trustee is a trust

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corporation, be paid to or applied by the direction of fewer than two persons as trustees thereof.

- (2) The restrictions imposed by this section do not affect—
- (a) The right of a personal representative in whom the settled land may be vested to convey or deal with the same ;
 - (b) The right of a person of full age who has become absolutely entitled to the settled land, free from any limitations, powers, and charges taking effect under the settlement, to require the land to be conveyed to him;
 - (c) The power of the tenant for life of full age, statutory owner, or personal representative in whom the settled land is vested to transfer or create such legal estates, to take effect in priority to the settlement, as may be required for giving effect to the obligations imposed on him by this Act, but where any capital money is raised or received in respect of the transaction the same shall be paid to or by the direction of the trustees of the settlement, or in accordance with an order of the court.
- (3) Where, after the commencement of this Act, the tenant for life of full age conveys or deals with his beneficial interest in possession in favour of a purchaser, and the interest so conveyed or created would, but for the restrictions imposed by Part I. of this Act on the creation of legal estates, have been a legal interest, then the purchaser shall (without prejudice to any protection conferred by this Act on a purchaser of a legal estate) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise if the interest so conveyed or created had been a legal estate and the reversion (if any) on any leases or tenancies derived out of the settled land had been vested in him.

Consents by assignees of life interests.

- 11 Nothing in Part I. of this Act shall discharge a tenant for life of full age from his obligation to obtain any consent required to be given under section fifty of the Settled Land Act, 1882 (as amended by any subsequent enactment), but a purchaser of a legal estate shall not be concerned to see or inquire whether any such consent has been given.

Indemnities to personal representatives and others.

- 12 A personal representative, trustee, or other person who has in good faith pursuant to this Act, executed a vesting deed, assent, or other conveyance of the settled land, or a deed of discharge of trustees, shall be absolutely discharged from all liability in respect of the equitable interests and powers taking effect under or protected by the settlement, and shall be entitled to be kept indemnified at the cost of the trust estate from all liabilities affecting the settled land, but the person to whom the settled land is conveyed (not being a purchaser taking free therefrom) shall hold the settled land upon the trusts (if any) affecting the same.

Provisions for the protection of a purchaser in good faith of settled land.

- 13 (1) A purchaser of a legal estate in settled land from a tenant for life of full age or statutory owner shall not (except, as hereby expressly provided) be bound or entitled to call for any information concerning the trust deed or any ad valorem stamp duty thereon, and whether or not he has notice of its contents he shall, save as hereinafter provided, be bound and entitled if the last principal vesting instrument states that the

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land is held on trust, or appoints trustees thereof for the purposes of the Settled Land Acts, to assume that—

- (a) The person in whom the land is thereby vested is the tenant for life of full age or statutory owner and has all the powers of a tenant for life under the Settled Land Acts as (if at all) thereby extended;
- (b) The trustees thereby appointed, or their successors appearing to be duly appointed, are the properly constituted trustees of the settlement;
- (c) The statements and particulars required by this Act and contained (expressly or by reference) in the last principal vesting instrument were correct at the date thereof;
- (d) The statutory power to appoint new trustees applies thereto, if no person is nominated to appoint, new trustees thereof :

Provided nevertheless that, as regards the first vesting deed executed for the purpose of giving effect to a settlement subsisting at the commencement of this Act, a purchaser shall be concerned to see that the person in whom the land is thereby vested is the tenant for life of full age or statutory owner to whom it ought to be conveyed.

- (2) A purchaser of a legal estate in settled land from a personal representative shall be entitled to act on the following assumptions:—
 - (i) If the capital money (if any) payable in respect of the transaction is paid to the personal representative, that such representative is acting under his statutory or other powers and requires the money for purposes of administration:
 - (ii) If such capital money is, by the direction of the personal representative, paid to persons who are stated to be the trustees of a settlement, that such trustees are the duly constituted trustees of the settlement for the purposes of the Settled Land Acts, and that the personal representative is acting under his statutory powers during a minority:
 - (iii) In any other case that the personal representative is acting under his statutory or other powers.
- (3) Where no capital money arises under a transaction, nothing in Part I. of this Act shall (except for the purpose of giving effect to a settlement subsisting at the commencement or created by virtue of this Act) render it necessary to appoint trustees of the settlement, but the tenant for life of full age Or statutory owner shall, in favour of a purchaser of a legal estate, have power to give effect to the transaction in like manner as if such trustees had been appointed, and to bind the equitable interests and powers which are by this Act protected by the settlement.
- (4) If a conveyance of or an assent relating to land formerly subject to a vesting instrument does not state that the land is held on trust, and does not appoint trustees for the purposes of the Settled Land Acts, a purchaser of a legal estate shall be bound and entitled to act on the assumption-that the person in whom the land was thereby vested took the same as an absolute owner free from any equitable interest or power affecting his estate.

SIXTH SCHEDULE

Section 13.

PROVISIONS RELATING TO INFANTS AND LUNATICS.

Infant's beneficial legal estate made to vest in the trustees of the settlement.

- 1 (1) Where, at the commencement of this Act, a legal estate in land is' vested in an infant beneficially, or would by virtue of any provision of this Act have been liable to be so vested if the infant were of full age, it shall, by virtue of this Act, vest in the trustees (if any) of the settlement upon such trusts as may be requisite for giving effect to the rights of the infant and other persons (if any) interested:

Provided that—

- (i) If there are no such trustees, then, pending their appointment, the legal estate shall, by virtue of this Act, vest in the Public Trustee upon the trusts aforesaid:
 - (ii) The Public Trustee shall not be entitled to- act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act on behalf of the infant by his father, mother, or testamentary or other guardian in the order named :
 - (iii) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent:
 - (iv) The father, mother, testamentary or other guardian of the infant (in the order named) may under the powers conferred by this Act appoint new trustees in place of the Public Trustee, and vest the legal estate in them on the trusts aforesaid, and in default of any such appointment the infant by his next friend, may, at any time during the minority, apply to the court for the appointment of trustees of the settlement, and the court may make such order as it thinks fit, and if thereby trustees of such settlement are appointed, the legal estate shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts aforesaid.
- (2) This section applies to settled land, whether the infant was entitled to the settled land or was tenant for life or a person having the powers of a tenant for life thereof (or would have had such powers if of full age) but does not apply to a legal estate in land vested in personal representatives, or in trustees for sale, and shall have effect subject to any mortgage term created by this Act.

As to infant trustees and mortgagees of land.

- 2 (1) Where, at the commencement of this Act, a legal estate in land is vested solely in an infant as a personal representative, or a trustee of a settlement, or on trust for sale, or on any other trust, or by way of mortgage, or would by virtue of any provision of this Act have been so vested if the infant were of full age, the legal estate and the mortgage debt (if any) and interest thereon shall, by virtue of this Act, vest in the Public Trustee, pending the appointment of trustees as hereinafter provided, as to the land upon the trusts, and subject to the equities affecting the same (but in the case of a mortgage estate for a term of years absolute in accordance with this Act), and as to the mortgage debt and interest upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein :

Provided that—

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- (a) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act by or on behalf of the persons interested in the land or the income thereof, or of the mortgage debt or interest thereon (as the case may be), and so that the father, mother, or testamentary or other guardian (in the order named) may make such request on behalf of the infant:
 - (b) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent:
 - (c) Any person interested in the land or the income thereof, or in the mortgage debt or in the interest thereon (as the case may be), may, at any time during the minority, apply to the court for the appointment of trustees of the trust, and the court may make such order as it thinks fit, and if thereby new trustees are appointed the legal estate (but in the case of a mortgage estate only for a term of years absolute as aforesaid) and the mortgage debt (if any) and interest shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts and subject to the equities aforesaid :
 - (d) Neither a purchaser of the land nor a transferee for money or money's, worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon.
- (2) Where, at the commencement of this Act, a legal estate in land is vested in an infant with another person or other persons as personal representatives, trustees, or mortgagees, or would, by virtue of this Act, have been so vested if the infant were of full age, the legal estate in the land with the mortgage debt (if any) and the interest thereon shall, by virtue of this Act, vest in such other person or persons of full age, as to the legal estate upon the trusts and subject to the equities affecting the same (but in the case of a mortgage estate only for a term of years absolute as aforesaid), and as to the mortgage debt and interest upon such trusts as may be requisite for giving effect to the rights, (if any) of the infant or other persons beneficially interested therein, but neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon :

Provided that if, by virtue of this subsection, the legal estate and mortgage debt (if any) become vested in a sole trustee, then the father, mother, testamentary or other guardian of the infant (in the order named) may by writing appoint a new trustee in place of the infant, and section ten of the Trustee Act, 1893, shall apply as if they had been nominated in that order for the purpose of appointing new trustees.

Provisions where an infant becomes entitled on a death.

- 3 (1) The provisions of this section shall have effect where an infant becomes entitled on a death to any interest in land not being an interest in the proceeds of sale of land subject to a trust for sale, and not being an interest in an undivided share in land.
- (2) Where a tenant for life, or person deemed to be a tenant for life, or who, if of full age, would have the powers of a tenant for life of or over the settled land, is an infant, and the settled land is vested in a personal representative, then the personal representative shall, during the minority of any such infant, have, in reference to the settled land, all the powers conferred by the Settled Land Acts on a tenant for life and on the trustees of the settlement.

- (3) If and when the personal representative would, if the infant had been of full age, have been bound to convey the settled land to him, then the personal representative may, if he thinks fit, convey the same by a vesting instrument to the trustees of the settlement, and in the meantime shall, during the minority, give effect to the directions of the trustees of the settlement, and shall not be concerned with the propriety of any conveyance directed to be made by such trustees if the same appears to be a proper conveyance under the powers conferred by the Settled Land Acts, and the capital money (if any) arising under the conveyance is paid to, or by the direction of the trustees of the settlement or into court; but a purchaser dealing with the personal representative and paying the capital money (if any) to him shall not be concerned to see that the money is paid to trustees of the settlement or into court, or inquire whether the personal representative is liable to give effect to any such directions, or whether any such directions have been given.
- (4) This section does not apply if the personal representative has disposed of the settled land before, the commencement of this Act, but, save as aforesaid, applies whether the infant becomes entitled before or after, such commencement, and shall have effect during successive minorities until a person of full age becomes entitled to require the settled land to be vested in him.

Abolition of conveyances of legal estates to infants.

- 4 (1) After the commencement of this Act, a conveyance of a legal estate in land to an infant for his own benefit shall operate only as an agreement for valuable consideration to execute a settlement by means of a vesting deed and trust deed in favour of the infant, to appoint trustees of the settlement, and in the meantime to hold the land in trust for the infant.
- (2) After the commencement of this Act, a conveyance of a legal estate in land to an infant by way of mortgage (including a charge by way of legal mortgage) shall operate only as an agreement for valuable consideration to execute a proper conveyance when the infant attains full age, and in the meantime to hold any beneficial interest in the mortgage debt in trust for the persons for whose benefit the conveyance was intended to be made :

Provided that, if the conveyance is made to the infant and another person or other persons, it shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the mortgage debt intended to be thereby provided for the infant.
- (3) This section does not apply to the transfer to an infant of any interest in the proceeds of sale of land which is subject to a trust for sale (with or without a power to postpone the sale), nor to the transfer to an infant of an equitable interest, taking effect under a settlement, in settled land.
- (4) This section does not affect the powers conferred by the Infant Settlements Act, 1855, provided that a legal estate in land is not vested in an infant; nor does anything in Part I. of this Act affect the presumption that, unless the contrary thereby appears, the persons expressed to be parties to any conveyance were of full age at the date thereof.

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Infants not to be appointed trustees or personal representatives.

- 5 (1) After the commencement of this Act, the appointment of an infant to be a trustee in relation to any settlement or trust shall be void, but without prejudice to the power to appoint a new trustee to fill the vacancy.
- (2) The appointment in a will by a testator who dies after the commencement of this Act of an infant to be an executor shall not operate to transfer any interest in the property of the deceased to the infant or to constitute him a personal representative for any purpose unless and until probate is granted to him after he has attained full age.
- (3) Nothing in this section shall affect the right of the Probate Division of the High Court of Justice to grant probate or letters of administration to any person after he has attained full age.

Receipts by married infants.

- 6 A married infant shall have power to give valid receipts for all income (including statutory accumulations of income made (during the minority) to which the infant may be entitled in like manner as if the infant were of full age.

Conveyances on behalf of lunatics and defectives.

- 7 (1) Where a legal estate in land (whether settled or not) is vested in a lunatic, whether so found or not, or a defective, either solely or jointly with another person or other persons, his committee or receiver shall, under an order in lunacy, or otherwise, or under any statutory power, make or concur in making all requisite dispositions for conveying or creating a legal estate in the name and on behalf of the lunatic or defective.
- (2) If land held on trust for sale is vested in a lunatic, whether so found or not, or a defective, either solely or jointly with another person or other persons, a new trustee shall be appointed in his place, or he shall be otherwise discharged from the trust, before the legal estate is dealt with under the trust for sale or under the powers vested in the trustees for sale.

Power for the court to settle the beneficial interests of a lunatic or defective.

- 8 (1) From and after the commencement of this Act, the court may direct a settlement to be made of the property of a lunatic (whether so found or not) or defective or any part thereof or any interest therein, on such trusts and subject to such powers, and provisions as the court may deem expedient, and in particular may give such directions—
- (a) where the lunatic or defective is the holder of a title of honour, and the property would not devolve with such title either under a testamentary disposition executed by him, or on his intestacy if he died intestate; or
 - (b) where the property has been acquired under a settlement, a will or an intestacy, or represents property so acquired; or
 - (c) where by reason of any change in the law of intestacy (whether by virtue of this Act or otherwise) or of any change in circumstances since the execution by the lunatic or defective of a testamentary disposition, or of any absence of information at the time of such execution, or on account of the former management of the property or the expenditure of money in improving or maintaining the same or for any other special reason the court is satisfied that

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any person might suffer an injustice if the property were allowed to devolve as undisposed of on the death intestate of the lunatic or defective or under any testamentary disposition executed by him.

- (2) The court may direct the committee or receiver of the lunatic or defective, or any trustee for him, to execute any vesting instrument, trust deed, conveyance (including a disentailing assurance) or other instrument and to do any other act or thing which may be required for effectuating the settlement in the name and on behalf of the lunatic or defective, and, for that purpose, may make a vesting order or appoint a person to convey; and any settlement approved by the court shall be as effectual and binding on all persons interested as if the same had been made by the lunatic or defective while of full capacity.
- (3) This section applies whether or not the lunatic or defective has executed a testamentary disposition and notwithstanding that it is not known whether he has executed such a disposition or not, but does not apply when he is an infant.
- (4) Subject to any rules of court to the contrary, all applications under this section shall be made to the Chancery Division of the High Court, notwithstanding that the property is being administered in lunacy.
- (5) Any person who under this Act has, or if this Act had not been passed would have had, a *spes successionis* (whether under the testamentary disposition if any is known to exist or in the event of the intestacy of the lunatic or defective) or interest in the property of the lunatic or defective or in any part thereof, as well as the committee or receiver and any other person who may be authorised by rules of court, shall have power to apply to the court for an order under this section.
- (6) Subject to making due provision for the maintenance of the lunatic or defective in accordance with his station in life, whether out of the capital or income of the property settled or other property or partly in one way and partly in another, and to providing, by means of a power of appointment or revocation, or otherwise, for the possibility of the lunatic or defective recovering full capacity, the court may, in making any order under this section, have regard to—
 - (i) the manner in which the property has been settled or dealt with on former occasions ;
 - (ii) in the case of land, the welfare of the labourers and other persons employed thereon, and the expediency of settling personal estate to devolve therewith ;
 - (iii) the continuation or provision of any pensions, and the application of any part of the income for charitable purposes ;
 - (iv) the provisions of any testamentary disposition of the lunatic or defective ;
 - (v) the expediency of providing for—
 - (a) jointures, portions, and other annual or capital charges and powers to create the same ;
 - (b) discretionary trusts, trusts for effecting or maintaining policies of assurance, powers of appointment, sinking funds for making good loss by fire (in lieu of, or in addition to, insurance) or for any other purpose;
 - (c) the extension of any statutory powers of investment management or otherwise ;
 - (d) the manner in which any costs are to be raised and paid, whether out of the settled property or otherwise ;

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- (e) any other matter or thing which, having regard to the nature of the settlement, of the property to be settled, and the management, development, and enjoyment thereof, and to the persons who are to take, either successively or otherwise, the court may consider material.
- (7) Rules of court may be made for giving effect to the provisions of this section, and in particular for compelling information to be furnished respecting, and production of, testamentary dispositions, and the lodgment of the same in court; for prescribing what notices (if any) of the proceedings are to be served, for dispensing with such notices and, when necessary, for the making of representation orders.
- (8) In this section, " testamentary disposition " means an instrument executed by the lunatic or defective while of full testamentary capacity, which, if unrevoked, might, on his death, be proved as a will or codicil ; and the court may act on such evidence as to the existence or absence of a testamentary disposition as it thinks fit.
- (9) At any time before the death of the lunatic or defective, the court may, as respects any property remaining subject to the trusts of a settlement made under this section, on being satisfied that any material fact was not disclosed to the court when the settlement was made, or on account of any substantial change in circumstances, by order vary the settlement in such manner as it thinks fit, and give any consequential directions.

SEVENTH SCHEDULE

Section 14.

AS TO LAND CHARGES AND LOCAL LAND CHARGES.

Extension of meaning of " land charge. "

- 1 (1) The expression " land charge " in section four of the Land Charges Registration and Searches Act, 1888 (in this-schedule called " the Act of 1888"), as amended by section nineteen of the Agricultural Holdings Act, 1908, shall after the commencement of this Act, and notwithstanding that the charge was not created pursuant to an application by any person, include:—
 - (a) Any charge (except in respect of registered land) acquired by the Commissioners of Inland Revenue under any statute passed or hereafter to be passed, for death duties ; and
 - (b) Any equitable charge (except in respect of registered land) acquired after the commencement of this Act by a tenant for life of full age or statutory owner under the Finance Act, 1894, or any other statute by reason of the discharge by him of any death duties or other liabilities, and to which special priority is given by the statute ; and
 - (c) Any equitable charge not hereinbefore specified (except in respect of registered land) created or arising after the commencement of this Act which is not secured by a deposit of documents relating to the legal estate affected; and
 - (d) A covenant or agreement restrictive of the user of freehold land, entered into after the commencement of this Act, and capable of affecting a purchaser with notice thereof (in this section referred to as a restrictive covenant) ; and

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- (e) Any easement, right, or privilege over or affecting land created or arising after the commencement of this Act and being merely an equitable interest (in this section referred to as an equitable easement); and
- (f) Any contract, by an estate owner or by a person entitled to have a legal estate conveyed to him, to convey or create a legal estate (including a contract conferring a valid option of purchase, a right of pre-emption, and any other like right) entered into after the commencement of this Act; and
- (g) Any other charge included in the definition of land charge " contained in section four of the Act of 1888 (as amended);

Provided that the registration of any charge in respect of the matters mentioned in paragraphs (b) and (c) of this subsection shall not operate to prevent such charge from being overreached by a conveyance to a purchaser of a legal estate in or created out of land subject to a trust for sale or a settlement.

- (2) In section ten of the Act of 1888, after the word " application " shall be inserted the words " if any. "
- (3) In regard to charges which are constituted land charges by this section:—
 - (a) The provisions of section eleven of the Act of 1888 shall not apply to a restrictive covenant, or an equitable easement or contract, but in other cases shall apply whether the land charge was created before or after the commencement of this Act:
 - (b) The provisions of section twelve of that Act shall apply where the land charge is created or arises after the commencement of this Act, save that a charge for death duties or an equitable easement or contract not registered as provided by this section shall not be void as against a purchaser for value otherwise than for money or money's worth :
 - (c) The provisions of section thirteen of that Act shall not apply to a restrictive covenant, or an equitable easement entered into or created before the commencement of this Act, but in other cases shall apply after the expiration of one year from the first assignment inter vivos, occurring after the commencement of this Act of a land charge created before the commencement of this Act:
 - (d) General rules may be made under section eighteen of that Act for carrying into effect the provisions of this section, for providing for the mode of registration of a land charge and any assignment thereof (and in the case of a restrictive covenant, equitable easement, charge, or contract by reference to the instrument imposing or creating the restriction or charge or interest, or an extract therefrom) and for the cancellation of the registration of a land charge without an order of the court, on the cesser thereof, or with the consent of the person entitled thereto, or on sufficient evidence being furnished that the land charge has been or is capable of being overridden under the provisions of this Act or otherwise :
 - (e) Nothing in this section shall be deemed to authorise the Commissioners of Inland Revenue to register a land charge in respect of any claim for death duty, unless the duty has become a charge on the land, and, in registering any such charge, a statement shall be furnished of the duties in respect of which the charge is claimed, and, so far as possible, of the land affected.
- (4) Where a land charge is not created by an instrument, then short particulars' of the effect of the charge shall be stated in the declaration lodged in support of the application to register the charge.

Status: This is the original version (as it was originally enacted).

- (5) A land charge within the meaning of section four of the Act of 1888 as amended by the Agricultural Holdings Act, 1908. for securing money created before or after the commencement of this Act shall, when registered, take effect as if the same had been created by a charge by way of legal mortgage made pursuant to this Act, but without prejudice to the priority of the charge.
- (6) Registration under section ninety-three of the Companies (Consolidation) Act, 1908, shall in the case of a land charge for securing money, be sufficient in place of registration under the Act of 1888, and shall have effect as if the land charge had been registered under that Act as amended.
- (7) In the case of an equitable charge, restrictive covenant, or other matter constituted a land charge by this Act, the registration in the prescribed manner in a local deeds registry of the document creating it shall be sufficient in place of registration under the Act of 1888, and the registration shall have effect as if the document or matter had been registered under that Act as amended.

As to " local land charges. "

- 2 (1) Any charge (hereinafter called " a local land charge") acquired either before or after the commencement of this Act by the council of any administrative county, metropolitan borough, or urban or rural district, or by the corporation of any municipal borough or by any other local authority under the Public Health Acts, the Metropolis Management Acts, 1855 to 1893, or the Private Street Works Act, 1892, or under any similar statute (public, general, or local) passed or hereafter to be passed, which takes effect by virtue of the statute, shall be registered in the prescribed manner by the proper officer of the local authority, and unless and until so registered shall (save as hereinafter mentioned in regard to charges created or arising before the commencement of this Act) be void as against a purchaser for money or money's worth of a legal estate in the land affected thereby.
- (2) Save as expressly provided by this section, the provisions of the Act of 1888, as amended by this Act, shall apply to a local land charge.
- (3) As regards a local land charge, the registration by the proper officer shall (without prejudice to the right of the Land Registrar also to register the charge if and when sufficient information is furnished to him) take the place of registration by the Land Registrar, and, in reference thereto, the proper officer of the local authority shall have all the powers and be subject to the same obligations as the Land Registrar has or is subject to in regard to a land charge.
- (4) Where a local authority has expended money for any purpose which, when the work is completed and any requisite resolution is passed or order is made, will confer a charge upon land, the proper officer of the local authority may in the meantime register a local land charge, in his register, against the land generally, without specifying the amount, but the registration of such general charge shall be cancelled within the prescribed time not being less than one year after the charge is ascertained and allotted, and thereupon the specific local land charges shall (unless previously discharged) be registered as of the date on which the general charge was registered.
- (5) Nothing in this section shall operate to impose any obligation to register any local land charge created or arising before the commencement of this Act except after the expiration of one year from such commencement or to discharge a purchaser for

Status: This is the original version (as it was originally enacted).

value from liability in respect of any local land charge which is not for the time being required to be registered.

- (6) Separate rules may be made under section eighteen of the Act of 1888 in reference to local land charges for giving effect to the provisions of this section and in particular for prescribing :—
- (a) The mode of registration of a general or specific charge;
 - (b) The power for a local authority where it has and means (without incurring unreasonable expense) of ascertaining the person against whom a specific charge should be registered, to register the same only against the land affected ;
 - (c) The proper officer to act as registrar, and as to official certificates of search to be given by him in reference to subsisting entries in his register ;
 - (d) The effect of an official certificate of search in regard to the protection of a purchaser, solicitor, trustee or other person in a fiduciary position, and the fees to be paid for any such certificate or search.
 - (e) The fees (if any) to be paid for the cancellation of an entry in the register ;
- (7) For the purposes of this section, any prohibition of or restriction on the user or mode of user of land or buildings enforceable by any local authority by virtue of any such statute as aforesaid shall be deemed to be a restrictive covenant and where arising after the commencement of this Act shall be registered by the proper officer as a local land charge.

Provided that any such prohibition or restriction may be registered generally against the area or district affected by reference to the statute under which it is imposed.

Re-registration of deeds of arrangement.

- 3 The registration of a deed of arrangement affecting land, pursuant to section seven of the Act of 1888, shall cease to have effect at the expiration of five years from the date of registration, but may be renewed from time to time, and, if renewed, shall have effect for five years from the date of the renewal: Provided that nothing in this section shall affect any registration made before the commencement of this Act, until the expiration of one year from such commencement.

Saving of Crown rights and vacation of writs.

- 4 (1) The foregoing provisions in this schedule shall bind the Crown, and accordingly land charges (including local land charges) belonging to or affecting land owned by the Crown shall be subject to the provisions relating to registration, but this section shall not operate to impose on land owned by or occupied for the purposes of the Crown any liability to which the land would not have been subject if this section had not been passed.
- (2) The registration of a writ or order affecting land may be vacated pursuant to an order of the High Court or any Judge thereof.
- (3) Section nineteen of the Settled Land Act, 1890, is hereby repealed.

Status: This is the original version (as it was originally enacted).

EIGHTH SCHEDULE

Section 27.

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.

1st August 1898.

Will of H. Jones proved.

[NOTE.—After the execution of the Vesting Deed the will only takes effect in equity and can be withdrawn from the abstract when not required as a root of title.]

20th August 1899.

Conveyance by the executors to the uses of the Will.

2nd September 1915.

Appointment of R. and S. to be Settled Land Act trustees of the will in place of Maria Jones and W. Jones who retire.

1st January 1925.

The Law of Property Act, 1922, comes into operation.

[NOTE.—If any bare legal estate is outstanding it will vest in W. Jones in fee simple.]

20th January 1925.

Deed by the Settled Land Act trustees vesting the fee simple in W. Jones on the trusts of the Will and appointing themselves Settled Land Act trustees.

2nd February 1925.

Appointment by W. Jones of five thousand pounds, part of the ten thousand pounds, to his daughter, Ann Jones.

3rd February 1925.

Assignment by Ann Jones of her five thousand pounds, part of the ten thousand pounds raisable for portions, to trustees F. and G. on her marriage to J. Robinson.

4th February 1925.

Will of W. Jones, appointing T. Brooks his executor.

6th March 1925.

Death of W. Jones leaving three children, Frederick Jones, his eldest son, and E. Jones and Ann Robinson.

2nd April 1925.

Disentail by Frederick Jones in trust for himself in fee simple.

3rd May 1925.

Will of W. Jones proved by B. and S. in regard to the settled land.

6th June 1925.

Mortgage by E. Jones of his one-half of the ten thousand pounds to K.

1st December 1925.

Death of Maria Jones, jointress.

2nd January 1926.

Release by F. and G. on payment to them of the five thousand pounds of Ann Robinson.

Same date.

Release by E. Jones and K., his mortgagee, of the five thousand pounds raisable for E. Jones.

3rd January 1926.

Assent by B. and S., as personal representatives to Frederick Jones in fee, without appointing Settled Land Act trustees.

[NOTE.—If the Assent had been made before the family charges had been cleared, the personal representatives would have nominated the trustees of the Will of H. Jones to be Settled Land Act trustees, and a discharge from them would have been required when the charges were cleared.]

6th February 1926.

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 1926.

Second mortgage either by charge by way of legal mortgage or for a term of two thousand years by Frederick Jones to D., to secure three thousand pounds and interest.

1st June 1926.

Third mortgage either by charge by way of legal mortgage or for a term of three thousand years by Frederick Jones to E., to secure two thousand pounds and interest.

8th August 1926.

Conveyance by Frederick Jones on his marriage (subject to above mortgages) to M. and N. upon trust for sale, the proceeds of sale being settled by a deed of even date.

Status: This is the original version (as it was originally enacted).

12th November 1926.

Death of M.

20th December 1926.

Appointment of F. as trustee of the conveyance on trust for sale in the place of M., and jointly with N.

10th June 1927.

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 1928.

John Williams leaves the United Kingdom is believed to be. alive but cannot be found.

10th August 1928.

Private Act passed authorising the X. Company to acquire Blackacre under compulsory powers.

15th June 1929.

Statutory declaration as to facts known with reference to John Williams.

16th June 1929.

Deed Poll by X. Company (who by their agent also execute in the name of John Williams) under section seventy-seven of the Lands Clauses Consolidation Act, 1845.

[NOTE.—This is an example of an exercise of a power over a legal estate the operation of which is expressly preserved.]

SPECIMEN No. 2

OF THE TITLE OF THE TRUSTEES OF FRANK SMITHERS TO GREENACRE.

RELATING TO UNDIVIDED SHARES.

2nd January 1910.

Mortgage by James Smith of Greenaare to M. Coy. Ltd. in fee to secure 1.000J. and interest.

4th February 1910.

Will of James Smith devising Greenacre to his ten children named therein in equal shares and appointing E. to be his executor.

1st March 1910.

Death of James Smith, leaving the ten children surviving.

3rd April 1910.

Probate by E.

4th December 1910.

Assent by E. to the devise to the ten children.

5th January 1911.

Mortgage by one of the sons of his tenth share.

15th April 1911.

Conveyance by one of the daughters on her marriage of a tenth share to trustees on trust for sale, the net proceeds to be held on the trusts of her settlement of even date.

20th May 1911.

Settlement by another of the sons of his tenth share and appointing Settled Land Act trustees.

8th June 1913.

Will of another daughter devising her tenth to her husband and appointing him executor.

20th June 1913.

Death of the testatrix.

4th August 1913.

Probate by her husband.

2nd May 1918.

Death of another son intestate.

30th July 1918.

Letters of administration granted to two of his brothers.

1st January 1925.

The Law of Property Act, 1922, comes into operation and vests Greenacre, subject only to the mortgage of 1910 affecting the entirety (which is converted into a mortgage for a term of three thousand years), in the Public Trustee, pending the appointment of new trustees, on trust for sale.

4th June 1925.

Order of the court (Chancery Division) made on the application of persons entitled to six tenths, appointing M. and N. to be trustees of the trust affecting Greenacre in place of the Public Trustee.

7th May 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.

[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.]

4th June 1926.

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 1926.

Death of testator.

Status: This is the original version (as it was originally enacted).

20th April 1927.

*Probate by X. and Y.
3rd May 1927.*

*Assent by X. and Y. vesting the settled land in John Robinson upon the trusts of the will of Walter Robinson, and appointing themselves to be Settled Land Act trustees.
14th July 1927.*

*Will of John Robinson appointing his daughters Mary Robinson and Jane Robinson his executors.
16th March 1929.*

*Death of John Robinson without having had a son and leaving five daughters.
12th June 1929.*

*Probate by X. and Y. in regard to the settled land.
25th July 1929.*

*Assent by X. and Y. to the vesting of the settled land in themselves on trust for sale, the net proceeds to be held on the trusts of the will of Walter Robinson.
7th January 1930.*

*Conveyance on sale by X. and Y. of Greenacre to Frank Smithers in fee.
8th January 1930.*

Equitable charge by Frank Smithers to James Montagu by way of indemnity and agreement to vest Greenacre in agreed trustees on trust for sale to raise the money when the amount is ascertained and for other purposes.

[NOTE.—A mere equitable charge not secured by deposit of documents can be overridden when the land is made subject to a trust for sale without joining the chargee.]
9th January 1931.

Lease by Frank Smithers of part of Greenacre to his wife for life at a rent.

[NOTE.—A lease for life is made to take effect as a demise for a term of ninety years determinable by notice after the death of the lessee by his representatives or by the lessor.]
23rd June 1932.

Conveyance by Frank Smithers, of Greenacre, to trustees on trust for sale subject to the lease. The net proceeds to be held on the trusts of a deed of even date, under which effect is given to the Agreement of 1930.

SPECIMEN No. 3

OF THE TITLE OF R. HORNE TO WHITEACRE.

WHERE THE TITLE COMMENCES AFTER THE COMMENCEMENT OF THIS ACT.
4th July 1925.

Settlement by John Wilson, being a deed declaring that Whiteacre is vested in himself in fee upon the trusts of a deed of even date.

Appointment of R. and S. to be trustees for the purposes of the Settled Land Acts.

Provisions extending the powers conferred by the Settled Land Acts, so far as they relate to dealings with land, and giving power for John Wilson during his life to appoint new trustees.

Trust Deed.
Same date.

Trusts declared for John Wilson for life, with remainder.

Upon trust that Elizabeth Wilson, if she survives him shall have a rentcharge of 200l. 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.

3rd August 1925.

Assignment by John Wilson of his life interest with policies to the Y. Company by way of mortgage which is paid off on his death out of the policy money.

[NOTE.—This gives to Y. Company the same rights to take possession as if the mortgage were of a legal life estate for the legal estate in fee simple is vested in John Wilson.]

4th September 1925.

Appointment of new trustee of five hundred years' term.

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.
Same date.

Appointment of new trustee, whereby John Wilson appoints P. to be trustee of the Vesting Deed in the place of S., and jointly with R. for the purposes of the Settled Land Acts. Memorandum of the appointment endorsed on the Vesting Deed.

7th January 1926.

Will of John Wilson appointing Isaac James and Joseph James executors.

3rd September 1926.

Death of John Wilson, leaving younger children and his widow.

4th April 1927.

Will of John Wilson proved by R. and P. in regard to the settled land.

1st October 1927.

Assignment by R. and P. to B. of term of five hundred years by way of mortgage for securing five thousand pounds and interest.

[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.]

Status: This is the original version (as it was originally enacted).

2nd December 1927.

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.

Appointment of R. and P. to be trustees for the purposes of the Settled Land Acts. Power for Henry Wilson during his life to appoint new trustees.

The same provisions for extending powers conferred by the Settled Land Acts as are contained in the Vesting Deed.

[NOTE.—These may be inserted either expressly, if short, or by reference to the former Vesting Deed, if long.]

2nd June 1928.

Appointment of James Cook and Harry Cook to be trustees of the Trust Deed.

2nd June 1928.

The like of the Vesting Deed.

4th November 1928.

Transfer of the mortgage for five thousand pounds by B. to C.

10th July 1929.

Death of Henry Wilson, leaving Thomas Wilson, his eldest son, and two younger children.

1st October 1929.

Letters of Administration to the settled land of Henry Wilson granted to James Cook and Harry Cook.

3rd November 1929.

Disentail by Thomas Wilson.

4th November 1929.

Release by C. on payment off of his mortgage debt of five thousand pounds and surrender of the equitable term of five hundred years.

10th November 1929.

Death of Elizabeth Wilson.

[NOTE.—Though her jointure took effect in equity only she has power to create a term of years absolute for raising arrears of the jointure, and the estate owner would be bound to give legal effect to a mortgage of the term.]

20th November 1929.

Release by two younger children of Henry Wilson of their portions.

Same date.

Demise by Thomas Wilson to L. and M. for an equitable term of eight hundred years, subject to cesser on payment of five thousand pounds and interest.

Same date.

Demise by James Cook and Harry Cook to L. and M. for the term of eight hundred years, subject to the cesser on redemption or charge by way of legal mortgage.

Same date.

Assent by them to the vesting of the settled land, subject to the term or legal charge, in Thomas Wilton in fee, without appointing Settled Land Act trustees.

10th March 1930.

Conveyance by Thomas Wilson and L. and M. to R. Home in fee.

SPECIMEN No. 4

OF THE TITLE OF THE ADMINISTRATORS OF
M. CURTIS TO RICH AND MIDDLE FARMS.

RELATING TO INFANTS.

2nd January 1918.

Will of James Wilcor devising Rich Farm and Middle Farm to the use of his elder son John Wilcor (an infant) for his life with remainders over for the issue of John Wilcor which failed with remainder to the use of his younger son Gilbert Wilcor (an infant) for his life with remainders over. Appointment of X. and Y. to be executors and Settled Land Act trustees.

4th February 1918.

Death of testator, leaving his two sons, giving dates of their births.

12th May 1918.

Probate by X. and Y.

15th December 1918.

Assent to the devise, John Wilcor being still an infant.

1st January 1925.

The Law of Property Act, 1922, comes into force and vests the settled land in X. and Y. as Settled Land Act trustees by reason of John Wilcor being an infant.

3rd June 1925.

Death of John Wilcox a bachelor and an infant.

29th September 1925.

Conveyance on sale of Rich Farm by X. and Y. to M. Curtis.

12th October 1925.

Conveyance by X. and Y. vesting Middle Farm in Gilbert Wilcor (who had attained full age) on the trusts of the will of James Wilcor and appointment of themselves as Settled Land Act trustees.

10th November 1925.

Conveyance on sale of Middle Farm by Gilbert Wilcor to M. Curtis, X. and Y. joining to receive the purchase money.

1st February 1926.

Will of M. Curtis purporting to appoint his infant son John Curtis executor.

3rd April 1926.

Death of M. Curtis.

5th September 1926.

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.]

Status: This is the original version (as it was originally enacted).

SPECIMEN No. 5

OF THE TITLE OF GEORGE SMITH TO HOUSES IN JOHN STREET.

RELATING TO LEASEHOLD PROPERTY.

25th March 1911.

Lease by Charles Robinson to Henry Chubb, of 10 to 16 (even numbers) John Street, in the city of X, for 99 years from date at a yearly rent of 5l. for each house.

26th March 1911.

First Mortgage (by subdemise) by Henry Chubb to A. for the residue of the term less 3 days for securing 3,000l. 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 1,000L 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 500l. and interest.

24th December 1914.

Transfer of First Mortgage by A. to T. in trust for Henry Chubb, who pays off the First Mortgage debt.

1st January 1925.

The Law of Property Act, 1922, comes into operation.

It extinguishes the first mortgage term, because Henry Chubb was not entitled to keep it alive to the prejudice of his mesne incumbrancers.

1st July 1925.

Order of Court directing Henry Chubb to hand over the Lease, First Mortgage, and Transfer of that Mortgage to B.

20th July 1925.

Assignment on sale by B., under his power, to George Smith.

[NOTE.—This conveys the head term created by the Lease and extinguishes all the mortgage terms. The head term may, if desired, be conveyed in the name of Henry Chubb.]

NINTH SCHEDULE

Section 27.

FORMS OF INSTRUMENTS.

FORM No. 1. VESTING DEED FOR GIVING EFFECT TO A SETTLEMENT SUBSISTING AT THE COMMENCEMENT OF THIS ACT.

This Vesting Deed made [&c.] between X. of [&c.] and Y. of [&c.] (hereinafter called the Trustees) of the one part and T.L. of [&c.] of the other part.

[Recite the Settlement under which T.L. is a tenant for life of full age in possession of the freeholds and leaseholds respectively described in the First and Second Schedules and has power to appoint new trustees, and the trustees are trustees for the purposes of the Settled Land Acts, also the request by T.L. that the trustees should execute the requisite vesting deed.]

Now for giving effect to the requirements of the Law of Property Act, 1922, this deed witnesseth as follows:—

1. The trustees as Trustees hereby declare that—

All and singular the hereditaments and premises respectively mentioned in the First and Second Schedules hereto and all other (if any) the premises capable of being vested by this declaration which are now by any means subject to the limitations of the recited settlement shall forthwith vest in the said T.L. for all the estates terms or interests capable of being vested by this declaration and so as to bind all equitable interests and powers which by the said Act or otherwise are protected by the recited settlement.

2. The said T.L. shall stand possessed of the premises hereby vested upon the trusts and subject to the powers and provisions which under the recited settlement and by virtue of the said Act or otherwise the same ought to be held from time to time.

3. The trustees are the trustees hereof for all the purposes of the Settled Land Acts, 1882 to 1922.

4. *[Add any powers additional to the Settled Land Act powers which are conferred by the settlement and relate to the land.]*

5. *[Add the usual covenant by T.L. with the trustees to pay the rents, observe the lessee's covenants and keep the trustees indemnified.]*

Status: This is the original version (as it was originally enacted).

6. The said T.L. during his life shall have power to appoint a new trustee or new trustees hereof.

In witness [&c.].

[NOTE.—Add the schedules. In the first part of the First Schedule give particulars of the manors, advowsons and other incorporeal hereditaments. In the second part give particulars of the freehold land referring, if practicable, to annexed plans, so that the vesting deed may ultimately become a convenient root of title. Unless this is done the deeds referred to will for purposes of the parcels remain part of the title. In the Second Schedule give particulars of the date, parties to the leases, short particulars of the property demised, terms and rents. If there are any legal mortgages having priority to the settlement these should be mentioned in another schedule and referred to in the recitals.]

FORM No. 2. VESTING DEED ON THE SETTLEMENT OF LAND.

This Vesting Deed made [&c.] between *John H.* of [&c.] of the first part, *Jane W.* of [&c.] of the second part, and X. of [&c.], Y. of [&c.], and Z. of [&c.] (hereinafter called the trustees) of the third part.

Witnesseth and it is hereby declared as follows:—

1. In consideration of the intended marriage between *John H.* and *Jane W.*, the said *John H.* as Settlor hereby declares that

All that (*setting out the parcels by reference to a schedule or otherwise*) are vested in *John H.* in fee simple (*or in the case of leaseholds refer to the terms*).

Upon the trusts declared concerning the same by a Trust Deed bearing even date with but intended to be executed immediately after these presents, and made between the same parties and in the same order as these presents or upon such other trusts as the same ought to be held from time to time.

2. The trustees are the trustees hereof for all the purposes of the Settled Land Acts, 1882 to 1922.

3. Notwithstanding any restriction contained in those Acts, the following powers additional to or larger than those conferred by those Acts, are conferred by the settlement on the said *John H.* or his personal representatives in reference to the premises hereby settled, and on the trustees, that is to say,

[*Here insert any additional powers that may be required in relation to the land*].

4. The said *John H.* during his life shall have power to appoint new trustees hereof.

In witness [&c.].

FORM No. 3. TRUST DEED ON THE SETTLEMENT OF LAND.

This Trust Deed made [&c.] between *John H.* of [&c.] (hereinafter called the Settlor) of the first part, *Jane W.* of [&c.] of the second part, and *X.* of [&c.], *Y.* of [&c.], and *Z.* of [&c.] (hereinafter called the trustees) of the third part.

Whereas these presents are supplemental to a deed (hereinafter called the Vesting Deed) bearing even date with but executed before these presents, and made between the same parties and in the same order as these presents, being a deed vesting certain hereditaments situated at _____ in the county of _____ in the Settlor Upon the trusts declared concerning the same by a trust deed of even date therein referred to (meaning these presents), and whereby the trustees were appointed trustees thereof for the purposes of the Settled Land Acts, 1882 to 1922, and certain powers were conferred in addition to the powers conferred by those Acts.

Now in consideration of the intended marriage between the Settlor and *Jane W.*, this Deed witnesseth as follows:—

1. The Settlor hereby agrees that he will hold the hereditaments comprised in the Vesting Deed In trust for himself until the solemnisation of the said marriage and thereafter Upon the trusts following, that is to say:—

2. Upon trust for the Settlor during his life without impeachment of waste with remainder Upon trust if *Jane W.* survives him that she shall receive out of the premises during the residue of her life a yearly jointure rentcharge of [&c.] and subject thereto Upon trust for the trustees for a term of 800 years from the date of the death of the Settlor without impeachment of waste Upon the trusts hereinafter declared concerning the same. And subject to the said term and the trusts thereof Upon trust for the first and other sons of the said intended marriage successively according to seniority in tail male with remainder [&c.] with an ultimate remainder in trust for the Settlor in fee simple.

[Here add the requisite trusts of the portion's term, and any other proper provisions including the appointment of the

trustees, as Settled Land Act trustees, extension of Settled Land Act powers either expressly or by reference to the Vesting Deed and a power for the tenant for life for the time being of full age to appoint new trustees.]

In witness [&c.].

[NOTE.—The Vesting Deed and Trust Deed can be executed as escrows till the marriage.]

Status: This is the original version (as it was originally enacted).

This Supplemental Vesting Deed made [&c.] between *Henry V.* of [&c.] (hereinafter called the Vendor) of the first part, *X.* of [&c.], *Y.* of [&c.], and *Z.* of [&c.] (hereinafter called the trustees) of the second part, and *John H.* [&c.] (hereinafter called the Purchaser) of the third part.

Whereas the Vendor is entitled for an estate in fee simple in possession free from incumbrances to the hereditaments herein-after conveyed and has agreed to sell the same to the Purchaser at the price of _____ pounds.

And whereas these presents are supplemental to a vesting deed (herein-after called the principal deed) dated [&c.], and made [&c.] [*Form No. 2*], being a deed vesting certain hereditaments in the Purchaser Upon the trusts of a trust deed of even date therewith, and by the principal deed the trustees were appointed to be the trustees thereof for the purposes of the Settled Land Acts, 1882 to 1922.

Now this Deed witnesseth as follows:---

1. In consideration of the sum of _____ pounds now paid to the Vendor by the trustees by the direction of the purchaser (the receipt of which sum the Vendor hereby acknowledges) the Vendor as Beneficial Owner hereby conveys unto the Purchaser All those [&c.]

To hold unto the Purchaser [in fee simple] upon and subject to the same trusts and powers as are declared by the principal deed by reference as aforesaid with respect to the hereditaments therein comprised.

2. [*Insert nomination of the trustees to be trustees for the purposes of the Settled Land Acts.*]

3. [*And (by reference to the provisions contained in the principal deed) any subsisting extended powers.*]

4. [*Power for the purchaser during his life to appoint new trustees.*]

In witness [&c.]

NOTE.—On a purchase of a term of years absolute out of capital money, the term must be conveyed to the tenant for life, if any, of full age, instead of to the trustees of the settlement. If there is a minority the land will be conveyed to the personal representatives or to the Settled Land Act trustees.

FORM No. 5. CONVEYANCE BY PERSONAL REPRESENTATIVES OF A FEE SIMPLE RESERVING THEREOUT A. TERM OF YEARS ABSOLUTE.

This Conveyance made [&c.] between *James Cook* of [&c.] and *Harry Cook* of [&c.] of the first part, L. of [&c.] and M. of [&c.] of the second part, and *Thomas Wilson* of [&c.] of the third part.

Whereas on the first day of October 1925 Letters of Administration to the real and personal estate of *Henry Wilson*, late of [&c.], who died [&c.], were granted by the principal probate registry to *James Cook* and *Harry Cook*.

And whereas *Henry Wilson* was at his death solely entitled to the hereditaments herein-after conveyed for an estate in fee simple.

Now this Deed witnesseth that *James Cook* and *Harry Cook*, as Personal Representatives of the said *Henry Wilson* deceased, hereby convey unto the said *Thomas Wilson* All that [&c.]

Reserving out of the premises nevertheless unto L. and M. a term of eight hundred years, without impeachment of waste, to commence from the date hereof but subject to cesser on redemption by *Thomas Wilson* under a Mortgage dated [&c.] and made between [&c.] on payment of the sum of five thousand pounds, and interest thereon at the rate of five pounds per centum per annum To hold the premises subject to the said term unto *Thomas Wilson* [in fee simple]. In witness [&c.]

NOTE.—The reservation will be valid at law, though the deed may not be executed by *Thomas Wilson*.

FORM No. 6. CONVEYANCE ON SALE RESERVING MINERALS AND RIGHT TO WORK AND A PERPETUAL RENTCHARGE.

This Conveyance made [&c.] between A. of [&c.] of the one part and B. of [&c.] of the other part.

Witnesseth that in consideration of the sum of pounds now paid by B. to A. (the receipt, &c.) and of the rentcharge herein-after reserved A. as Beneficial Owner hereby conveys unto B. All those [&c.] except and reserving unto A. in fee simple all mines and minerals Together with full power to work [&c.]

To hold (except and reserved as aforesaid) unto B. in fee simple reserving out of the premises and yielding and paying to A. in fee simple a perpetual yearly rentcharge of pounds, to be for ever charged upon and issuing out of the premises hereby conveyed clear of all deductions (except landlord's property tax), and payable by equal half-yearly payments on [&c.], the first payment to be made on [&c.]

And B. hereby covenants with A., and the persons deriving title under him to pay [&c.]

In witness [&c.]

Note the reservations will be valid at law even if the deed is not executed by B.

FORM No. 7. DEED FOR CONFIRMING LEGAL ESTATES WHICH HAVE NOT BEEN VALIDLY CREATED.

Status: This is the original version (as it was originally enacted).

To All to whom this Further Assurance shall come A.B. of,
&c. sends greeting this day of 19

[Recite the invalid dealings, giving short particulars in schedules of the Conveyances, Grants and Leases which purport to transfer or create legal estates, that A.B. is entitled in fee simple or for a term of years absolute in the land affected and desires to confirm the dealings.]

Now these presents witness and the said A.B. hereby declares that his legal estate in the premises affected to which he is entitled as aforesaid shall go and devolve in such manner as may be requisite for legally confirming the interests capable of subsisting as legal estates expressed to have been transferred or created by the documents mentioned in the schedules hereto or any of those documents and any dealings

with the interests so confirmed which would have been legal if those interests had in the first instance been validly transferred or created.

Provided always that subject to such confirmation of interests and dealings nothing herein contained shall affect the legal estate of the said A.B. in the premises.

In witness, &c. *[Add schedules.]*

NOTE.—This form takes the place of a conveyance to uses for confirming past transactions and is applicable to a term of years absolute as well as a fee simple.

FORM No. 8. ABSENT BY PERSONAL REPRESENTATIVE.

I, A.B., of [&c.] as the personal representative of X.Y., late of [&c.] deceased, do this day of 19
hereby, As Personal Representative, assent to the vesting in C.D. of [&c.] of [All that farm &c.] or [All the property described in the Schedule hereto] for all the estate or interest of the said X.Y. at the time of his death [*or, for an estate in fee simple.*]

[Here, if a settlement is on foot, insert appointment of proper persons to be trustees for the purposes of the Settled Land Acts, a declaration of trust by C.D. to hold on the trusts of the Trust Deed or Will, also any additional powers and power to appoint new trustees, also add Schedule if required. If the land is to be held on trust for sale, add a declaration by the trustees that they hold the land on trust for sale and will stand possessed of the net proceeds on the trusts declared of the same by the Will or other settlement. Also add power to appoint new trustees corresponding to the power, if any, in the Will or settlement.]

As witness, &c.

NOTE.—The expression “conveyance” includes an assent, but an assent will relate back to the death unless a contrary intention appears.

FORM No. 9. CHARGE BY WAY OF LEGAL MORTGAGE.

This Legal Charge made [&c.] between A. of [&c.] of the one part and B. of [&c.] of the other part.

[Recite the title of A. to the freeholds or leaseholds in the Schedule and agreement for the loan by B.]

Now in consideration of the sum of _____ pounds now paid by B. to A. (the receipt &c.) this Deed witnesseth as follows :—

1. A. hereby covenants with B. to pay *[Add the requisite covenant to pay principal and interest]*.

2. A. as Beneficial Owner hereby charges by way of legal mortgage All and Singular the hereditaments mentioned in the Schedule hereto with the payment to B. of the principal money, interest, and other money hereby covenanted to be paid by A.

3. *[Add covenant to insure buildings and any other provisions desired.]*

In witness [&c.] *[Add Schedule]*.

NOTE.—B. will be in the same position as if a mortgage had been effected by a demise of freeholds or a subdemise of leaseholds.

TENTH SCHEDULE

Section 35.

CONSEQUENTIAL AMENDMENTS OF THE SETTLED LAND ACTS, 1882 TO 1890.

Amendments consequential of Part I. of this Act.

1 The following provisions shall take effect as respects the Settled Land Acts, 1882 to 1890, in this Schedule referred to as the Acts :—

- (1) In subsection (6) of section two of the Act of 1882 the words "as tenants in common or" and the words "or for other concurrent estates or interests" are hereby repealed, and all references in the Acts to undivided shares in land and to partitions of the settled land are likewise repealed:
- (2) An express power to sell settled land which is not vested in the tenant for life of full age, or statutory owner, shall not be exercisable in relation to the land, but the operation of such power to constitute persons to be trustees of the settlement shall remain unaffected ; and all powers (including powers conferred by other statutes in extension of the powers conferred by the Acts) to raise money by mortgage of the settled land shall be exercisable by charge by way of legal mortgage or by demise or subdemise thereof:
- (3) In clause (i) of subsection (10) of section two of the Act of 1882, in place of the words " also an undivided share" the words "but not an undivided share " are hereby substituted :
- (4) Section nineteen and subsections (1) (2) and (3) of section twenty-four of the Act of 1882 are hereby repealed, and in subsection (4) of section twenty-four aforesaid the words "by purchase or in exchange" are hereby substituted for the words " as aforesaid, " and references to "undivided shares" and to "partition " in that section are

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hereby repealed, and the words " in respect of money actually raised and remaining unpaid " are also repealed :

- (5) The following enactment is hereby substituted for subsection (1) of section thirty-seven of the Act of 1882, namely :—

“Where personal chattels are settled so as to devolve with settled land, a tenant for life of the land may sell the chattels or any of them.”

- (6) The words " trustee is a trust corporation " are hereby substituted for the words " settlement authorises the receipt of capital trust money of the settlement by one trustee " in subsection (1) of section thirty-nine of the Act of 1882 ; and the words " the trustee is a trust corporation " are hereby substituted for the words " a contrary intention is expressed in the settlement " in subsection (2) of section forty-five of the Act of 1882 :
- (7) Where an application is made to the court for the appointment of trustees of a trust deed or settlement, and a vesting instrument is subsisting, the court shall also have power to appoint trustees for the purposes of the Acts of the principal or only vesting instrument and of the supplemental vesting instruments, if any, referred to in the application ; and may require a memorandum of the appointment to be endorsed thereon. References in the Acts to settlements and to trustees of settlements shall, in connexion with the appointment of trustees, extend to vesting instruments and to the trustees thereof:
- (8) Section forty-four of the Act of 1882 shall apply to all questions or differences in relation to settled land which may arise under Part I. of this Act:
- (9) The provisions of section fifty-one of the Act of 1882 shall apply to any matter which might induce a tenant for life of full age, or statutory owner, not to exercise his right to require the settled land to be vested in him:
- (10) All powers which under section fifty-six of the Act of 1882 (as amended) could only be exercised in relation to the settled land with the consent of the tenants for life or one of them shall, after the commencement of this Act, be exercisable by the tenant for life of full age, or statutory owner, as if the same were additional powers within section fifty-seven of that Act :
- (11) Clause (ix) of subsection (1) of section fifty-eight of the Act of 1882 does not apply where the land is subject to an immediate binding trust for sale :
- (12) Sections fifty-nine and sixty of the Act of 1882 (as amended or extended by this Act) shall have effect subject to the provisions of this Act requiring the settled land during a minority to be vested in the statutory owner unless retained by a personal representative :
- (13) Section sixty-three of the Act of 1882 and sections six and seven of the Act of 1884 are hereby repealed;
- (14) The last paragraph of section nine of the Act of 1890, commencing with the words "and the rent-charge," is hereby repealed.

Amendments for the purposes of Parts V. and VI.

- 2 The following provisions shall, for the purposes of Parts V. and VI. of this Act, have effect as amendments of the Acts, namely:—

- (1) References in the Acts to " enfranchisements " and to " sales" shall, after the commencement of this Act, extend to the extinguishment of manorial incidents :
- (2) Where rights to manorial incidents are comprised in a settlement the tenant for life of full age, or statutory owner, may, as respects any fines payable in respect of an alienation in lieu of a fine payable for a licence authorising the alienation, agree the amount of the fine if the same is not fixed by the custom of the manor:
- (3) Section fourteen and subsection (3) of section twenty of the Act of 1882 are hereby repealed :
- (4) Any gross sum or an instalment thereof received in respect of the extinguishment of manorial incidents shall be capital money arising under the Acts :
- (5) Capital money may be applied—
 - (a) In discharge of any fines payable in respect of the alienation of any settled land affected by manorial incidents;
 - (b) In payment of the gross sum or an instalment thereof payable as compensation for the extinguishment of manorial incidents affecting the settled land, and for the acquisition of any mines, minerals, and other rights of the lord or the owner of the land affected by the manorial incidents, and for the compensation of the steward;
 - (c) In redemption of any compensation rentcharge created in respect of the extinguishment of manorial incidents, and affecting the settled land ;
 - (d) In payment of costs and expenses incidental to any of the above matters:
- (6) The tenant for life of full age, or statutory owner, shall, in reference to a compensation agreement and to other incidental matters, have the powers conferred on him by the Law of Property Act, 1922, either as tenant for life of full age, or statutory owner, of the settled land affected by manorial incidents, or of the manor, or otherwise in right of the manorial incidents as the case may require :
- (7) A tenant for life of full age, or statutory, owner may raise money in like manner as he is authorised to raise money by section eleven of the Act of 1890 (as amended) for any of the following purposes, namely:—
 - (a) For extinguishing any manorial incidents under the Law of Property Act, 1922 ; or
 - (b) For compensating the steward on the extinguishment of manorial incidents and for discharging the expenses incurred in connexion with the extinguishment ; or
 - (c) For redeeming a compensation rentcharge created under the Law of Property Act, 1922, and affecting the settled land; and
 - (d) For discharging the money properly required for payment of the costs of any such transaction.

Amendments for the purposes of Part VII.

3 The following provisions shall, for the purposes of Part VII. of this Act, have effect as amendments of the Acts, namely :—

- (1) Capital money may be applied—
 - (a) In commuting any additional rent made payable under Part VII. of the Law of Property Act, 1922, on the conversion of a perpetually renewable leasehold

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interest into a long term, and in satisfying any claim for compensation under that Act by any officer, solicitor, or other agent of the lessor in respect of fees or costs which would have been payable by the lessee or underlessee on any renewal;

(b) In payment of costs and expenses incidental to the above matters:

(2) In reference to the conversion of a perpetually renewable lease or underlease into a long term, a tenant for life of full age, or statutory owner, may enter into such agreements and do such acts and things as the lessor or lessee or underlessee (as the case may require) is, by Part VII. of the Law of Property Act, 1922, authorised to enter into or do:

(3) A tenant for life of full age, or statutory owner, may raise money in like manner as he is authorised to raise money by section eleven of the Act of 1890 (as amended) for any of the following purposes, namely:—

(a) For commuting any additional rent made payable under Part VII. of the Law of Property Act, 1922, on the conversion of a perpetually renewable leasehold interest into a long term;

(b) For satisfying any claims for compensation under that Act by any officer, solicitor, or other agent of the lessor in respect of fees or costs which would have been payable by the lessee or under-lessee on any renewal;

(c) For discharging the money properly required for payment of the costs of the transaction,

ELEVENTH SCHEDULE

Section 82.

FORMS OF TRANSFER AND DISCHARGE OF MORTGAGES.

PART I

FORM OF TRANSFER OF MORTGAGE.

This Transfer of Mortgage made the day of
 19 Between M. of [&c.] of the one part and T. of [&c.] of
 the other part, supplemental to a Mortgage dated [&c.], and
 made between [&c.], and to a Further Charge dated [&c.], and
 made between [&c.] affecting &c. (*here state short particulars of
 the mortgaged property*).

WITNESSETH that in consideration of the sums of £ and
 £ (for interest) now paid by M. to T., being the respective
 amounts of the mortgage money and interest owing in respect
 of the said mortgage and further charge (the receipt of which
 sums M. hereby acknowledges) M., as mortgagee, hereby con-
 veys and transfers to T. the benefit of the said mortgage and
 further charge.

In witness, &c.

Section 84.

PART II

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, see section 84 (2).

TWELFTH SCHEDULE

Section 128.

EFFECT OF ENFRANCHISEMENT.

- (1) The following provisions shall, from and after the commencement of this Act, apply with respect to the enfranchised land:—
- (a) The land shall be freehold land and be free from liability for forfeiture for the conveyance or attempted conveyance of an estate of freehold in the land, or for alienation without licence, whether by way of sale, lease, mortgage or otherwise :
 - (b) The tenant shall be free from the customary suits and services and from liability to do fealty :
 - (c) In place of the lord's right to escheat the Crown or the Duchy of Lancaster or the Duke of Cornwall (as the case may require) may become entitled to the land as bona vacantia under the provisions of Part VIII. of this Act:
 - (d) The land shall not be subject to the custom of borough English, or of gavelkind, or to any other customary mode of descent, or to any custom relating to dower or freebench or tenancy by the curtesy, or to any other custom whatsoever, but shall be governed as to descent on death and intestacy or partial intestacy and devolution on death by the provisions of Parts VIII. and IX. of this Act:

Provided that nothing in this paragraph with respect to dower, freebench, or curtesy shall apply to any person married before the commencement of this Act, unless in the case of dower or freebench the husband dies after the commencement of this Act, and in the case of curtesy, the wife dies after such commencement ; but where a right to freebench has attached before the commencement of this Act which cannot be barred by a testamentary or other disposition made by the husband, then such right shall, unless released, remain in force in equity :

- (e) The land shall (subject to the provisions of Part I. of this Act and of this Schedule) be held under the same title as that under which it was held at

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the commencement of this Act, and shall not be subject to any estate, right, charge, or interest affecting the manor :

- (f) Every mortgage of the copyhold estate in the land shall become a mortgage of the land for a term of years absolute in accordance with the provisions of Part I. of this Act and accordingly :
- (i) Where at the commencement of this Act a mortgage of the customary estate of inheritance in copyhold land effected by surrender, with or without admission, or by a covenant to surrender, is subsisting, then the mortgagee shall, by virtue of this Act, acquire a legal term of years absolute in the enfranchised land comprised in his mortgage subject to a proviso for cesser corresponding to the right of redemption subsisting under the mortgage ;
 - (ii) Where at the commencement of this Act the copyhold land has been surrendered to the use of a mortgagee, without notice of a previous covenant to surrender contained in another mortgage, that mortgagee shall not be deemed to be a subsequent incumbrancer as respects the last-mentioned mortgage.

In this paragraph the expression " surrender " includes any other disposition which, when entered on the court rolls, operated as a surrender to the use of any person.

- (2) The enfranchisement shall not, except as in this Act mentioned, affect the rights or interests of any person in the enfranchised land under a will, settlement, mortgage, or otherwise by purchase, but those rights and interests shall (subject to the provisions of Part I. of this Act) continue to attach upon the land enfranchised in the same way as nearly as may be as if the freehold had been comprised in the instrument or disposition under which that person claims, and accordingly the enfranchised land shall (save as expressly provided by this Act) be subject to the same or corresponding trusts, powers, executory limitations over, rights and equities (if any) and to the same or corresponding incumbrances and obligations as affected the land immediately before the commencement of this Act :

Provided that (in the case of manors in which at the commencement of this Act it was the practice for copyholders in fee to grant derivative interests to persons admitted as copyholders of the manor in respect of those interests) the provisions of this paragraph as to the attachment of such rights and interests as aforesaid shall apply only to the estate of the copyholder in fee, but the enfranchisement shall enure for the benefit of the persons entitled to such derivative interests in manner hereinafter provided.

- (3) Where the land is, at the commencement or by virtue of this Act, subject to any subsisting lease or demise, for a term of years absolute, the freehold into which the copyhold estate is converted shall be the reversion immediately expectant on the lease or demise, and the benefit of the rents and services reserved and made payable on, and the conditions in, or in respect, of, the lease or demise, shall be incident and annexed to the reversion, and the burden of the covenants or agreements, expressed or implied, on the part of the lessor and lessee respectively shall run with the reversion and with the land respectively, and the enfranchisement shall not affect any right of distress, entry, or action accruing in respect of the lease or demise, and any lease or demise, otherwise than for a term of years absolute, shall take effect in equity only :

Provided that (in the case of manors in which it was the practice for copyholders in fee to grant derivative interests to persons admitted as copyholders of the manor

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in respect of those interests) this paragraph shall apply only in respect of leases or demises taking effect out of the estate of the copyholder in fee.

- (4) An enfranchisement by virtue of this Act shall not deprive a tenant of any commonable right to which he is entitled in respect of the enfranchised land, but where any such right exists in respect of any land at the commencement of this Act it shall continue attached to the land notwithstanding that the land has become freehold.
- (5) An enfranchisement by virtue of this Act of any land (including any mines and minerals hereinafter mentioned) shall not affect any right of the lord or tenant in or to any mines, minerals, limestone, lime, clay, stone, gravel, pits, or quarries, whether in or under the enfranchised land or not, or any right of entry, right of way and search, or other easement or privilege of the lord or tenant in, on, through, over, or under any land, or any powers which in respect of property in the soil might but for the enfranchisement have been exercised for the purpose of enabling the lord or tenant, their or his agents, workmen, or assigns, more effectually to search for, win, and work any mines, minerals, pits, or quarries, or to remove and carry away any minerals, limestone, lime, stones, clay, gravel, or other substances had or gotten therefrom, or the rights, franchises, royalties, or privileges of the lord in respect of any fairs, markets, rights of chase or warren, piscaries, or ether rights of hunting, shooting, fishing, fowling, or otherwise taking game, fish, or fowl:

Provided that the owner of the enfranchised land shall, notwithstanding any reservation of mines or minerals in this Act (but without prejudice to the rights to any mines or minerals, or the right to work or carry away the same), have full power to disturb or remove the soil so far as is necessary or convenient for the purpose of making roads or drains or erecting buildings or obtaining water on the land.

- (6) An enfranchisement by virtue of this Act shall not affect any liability subsisting at the commencement of this Act (whether arising by virtue of a court leet regulation or otherwise) for the construction maintenance cleansing or repair of any dykes, ditches, canals, sea or river walls, piles, bridges, levels, ways and other works required for the protection or general benefit of any land within a manor or for abating nuisances therein; and any person interested in enforcing the liability may apply to the court to ascertain or apportion the liability and to charge the same upon or against the land or any interest therein; and the court may make such order as it thinks fit; and the charge when made by the order shall, be deemed to be a land charge within the meaning of the Land Charges Registration and Searches Act, 1888 (as amended by any subsequent enactment), and may be registered accordingly; and, in addition, the jurisdiction of any court leet, customary or other court, in reference to the matter is hereby transferred to the court.
- (7) A right preserved to the lord by virtue of this schedule shall not for the purposes of Part VI. of this Act be deemed to be a manorial incident unless it is otherwise agreed.
- (8) On the enfranchisement of any land by virtue of this Act—
- (a) If there is a copyholder in fee (not being a mortgagee) the freehold estate in fee simple shall vest (subject as provided in this schedule) in that person;
 - (b) If there is no copyholder in fee, or a mortgagee has been admitted, the freehold estate in fee simple shall (subject as provided in this schedule) vest in the person who immediately before the commencement of this Act had the best right to be admitted as copyholder in fee, or would have had such right if a mortgagee had not been admitted, but such person shall (save as hereinafter provided) be personally liable to pay the fines and fees which

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would have been payable by him on admittance ; and if the last person who was admitted as copyholder in fee (not being a mortgagee) has died before the commencement of this Act (whether or not having disposed of the land by will), his personal representative shall be deemed to have had the best right to be admitted :

- (c) In the case of manors in which it was the practice of copyholders in fee to grant derivative interests to persons who were admitted as copyholders of the manor in respect of those interests, the enfranchisement of the land, and vesting of the same in the copyholder in fee (not being a mortgagee) or other person entitled under this schedule shall enure for the benefit of every person having or entitled to acquire any customary estate or interest in the land, and every such person shall (without prejudice to the provisions of Part I. of this Act) become entitled to a legal estate (if the interest is capable of subsisting as a legal estate) or equitable interest in the enfranchised land corresponding to his former customary or other estate or interest, but subject to the manorial incidents affecting such estate or interest until the same are extinguished under Part VI. of this Act, and so that a mortgagee of the inheritance shall take only a term of years absolute :
- (d) Where at the commencement of this Act the copyhold land was subject to interests affecting or derived out of the fee simple which are under this Act capable of subsisting at law, but immediately after such commencement were not capable of being overreached by virtue of a subsisting trust for sale or a settlement, the persons entitled shall (subject to the terms of years absolute of prior mortgagees) take legal estates in the enfranchised land corresponding to their former equitable or other interests, but subject to the manorial incidents (if any) affecting such interests until the same are extinguished under Part VI. of this Act:
- (e) If at the commencement of this Act there is a person entitled to a perpetually renewable lease in the copyhold land (not being a mortgagee) the freehold estate in fee simple shall vest (subject as provided in this schedule) in that person as if he had been a copyholder in fee :

Provided that—

- (i) If a question arises as to who had the best right to be admitted as copyholder in fee, or has otherwise become entitled by virtue of this schedule to the freehold estate in fee simple, or to a derivative legal estate, the court, on the application of the lord of the manor or any person interested in the land, may declare who had the best right to be so admitted, or has become so entitled, or, in case the person who had the best right to be so admitted, or has become so entitled, cannot be found or ascertained, then on proof that such fines and fees as are made payable by this schedule have been paid or provision made for their payment, the court, on the like application, may make an order vesting the freehold estate in fee simple, or a derivative legal estate (subject to the reservation of any terms of years absolute required for giving effect to incumbrances) in such person as may be appointed by the court for the purpose (who shall, in the case of the fee simple, be deemed to have been admitted to the inheritance), but subject to the manorial incidents affecting the same until those incidents are extinguished under Part VI. of this Act, and the lord may be so appointed and in such case shall be deemed to have paid the fines and fees aforesaid; and

Status: This is the original version (as it was originally enacted).

- (ii) Where at the commencement or by virtue of -this Act the copyhold land is settled land, the freehold estate in fee simple or derivative legal estate, as the case may be, shall (subject to the terms of years absolute of mortgagees having priority to the settlement) and without prejudice in equity to any incumbrance affecting any life estate or interest, vest in the tenant for life of full age or statutory owner (including a personal representative entitled to the settled land) upon such trusts and subject to such powers and provisions as may be necessary to give effect to the settlement, save that a fee simple conditional (whether legal or equitable) on the birth of issue shall take effect as and be converted into an equitable entailed interest (either general or special as the case may require), if the fee has not become absolute ; and
- (iii) Where at the commencement of this Act the copyhold land or an equitable interest therein capable of subsisting as a legal estate was vested in an infant, the freehold estate in fee simple or derivative legal estate, as the case -may be, shall (subject as aforesaid) vest in the personal representatives or trustees of the settlement, or other persons who, under Part I. of this Act, become entitled to the legal estate of the infant; and
- (iv) Where at the commencement of this Act the copyhold land was held in undivided shares, the entirety of the freehold estate in fee simple shall (subject to any terms of years absolute required for giving effect to mortgages affecting the entirety), vest in trustees for sale in accordance with the provisions of Part I. of this Act; and
- (v) Where at the commencement or by virtue of this Act the copyhold land was or is made subject to a trust for sale, the freehold estate in fee simple shall (subject to the terms of years absolute of mortgagees) vest in the trustees for sale in accordance with this Act; and
- (vi) Where under the provisions of this schedule the freehold estate in fee simple is (subject or not to any mortgage term), made to vest in any person who was not the copyholder in fee at the commencement of this Act, then such person shall be deemed to have been admitted tenant to the inheritance immediately before such commencement, and such person shall (save as hereinafter provided) be personally liable to pay the lines and fees which would have been payable by him on admittance ; and
- (vii) If two or more persons together constitute the person who, immediately before the commencement of this Act, had the best right to be admitted as aforesaid, or in whom the freehold estate in fee simple is made, by virtue of this schedule, to vest without having actually been admitted as copyholders in fee, they shall not be personally liable under the foregoing provisions to pay any greater fines and fees than would have been payable if one of them only had been admitted tenant to the inheritance; and
- (viii) If at the commencement of this Act there is a copyholder in fee (whether or not being a mortgagee) then notwithstanding that, by virtue of this Act, the freehold estate in fee simple is made to vest in some other person who has not been admitted to the inheritance, but is deemed to have been so admitted, no fines or fees shall be payable on that account; and

Status: This is the original version (as it was originally enacted).

- (ix) No fines or fees shall be payable by reason only of the vesting, by virtue of this Act, of a term of years absolute perpetual rentcharge or other derivative legal estate in the person entitled thereto, although he may not have been admitted at the commencement of this Act.

THIRTEENTH SCHEDULE

Section 138.

COMPENSATION FOR EXTINGUISHMENT OF MANORIAL INCIDENTS.

PART I

FORM No. 1. COMPENSATION AGREEMENT.

Manor of _____, in the County of _____

AN AGREEMENT made the _____ day of _____ 19____, BETWEEN *A.B.*, of &c. (Lord of the above-mentioned Manor) of the first part, *C.D.*, of &c. (Mortgagee of the said Manor) of the second part, *E.F.*, of &c., and *G.H.*, of &c. (Settled Land Act Trustees of the Vesting Deed affecting the said Manor) of the third part, *X.Y.*, of &c. (the Owner of the land described in the First Schedule hereto, formerly copyhold of the said Manor but now enfranchised by virtue of the Law of Property Act, 1922) of the fourth part, and *H.J.*, of &c. and *K.L.*, of &c. (Settled Land Act Trustees of the Vesting Deed affecting the said land), of the fifth part.

[NOTE.—In framing compensation agreements only the persons who on a sale of the manorial incidents and of the land affected would have been able to make a title thereto respectively and give a receipt for the purchase money will be made parties.]

WITNESSETH AS FOLLOWS:—

1. Pursuant to the Law of Property Act, 1922, it is agreed that the compensation for the extinguishment of the manorial incidents saved by Part V. of that Act affecting the said land [and of the rights of the lord in or to any mines and minerals in or under the said land and the sporting and other rights affecting the same preserved by the Twelfth Schedule to that Act] shall be the sum of

pounds with interest thereon payable half yearly at the rate of five and a half pounds per cent. per annum from the date hereof until paid [or the principal sum of

pounds to be paid by twenty equal instalments, the first instalment to be paid on the first day of January next with interest at five and a half per cent. per annum on the said principal sum from the date hereof and a further instalment with interest at the like rate on so much of the said principal sum as for the time being remains unpaid to be paid on every subsequent first day of January until the said principal sum shall be fully paid (all interest up to date being paid with the instalments) and so long as any of the said instalments and interest remain payable a terminable and variable rentcharge commencing from the date hereof and accruing from day to day but payable at the same time as the instalments and interest shall issue out of the said land [or the part of the said land described in the first part of the First Schedule hereto] of an amount equal to the said instalments and interest from time to time payable and so as to secure the same].

2. The said (the person who retains the custody of the documents mentioned in the first part of the Second Schedule which relate to the manor) hereby acknowledges the right of the said to production of the documents mentioned in the first part of the Second Schedule hereto and to delivery of copies thereof [and hereby undertakes for the safe custody thereof].

3. The said (the person who retains the documents mentioned in the second part of the Second Schedule which relate to the land) hereby acknowledges the right of the said to production of the documents mentioned in the second part of the Second Schedule hereto and to delivery of copies thereof [and hereby undertakes for the safe custody thereof].

4. The stewards compensation and all costs and expenses paid or incurred by the lord and recoverable from the tenant in respect of this extinguishment have been included in the compensation money aforesaid.

As WITNESS the hands of the parties hereto the day and year first above written.

Status: This is the original version (as it was originally enacted).

[NOTE.—If the compensation is not paid in one gross sum, then the agreement should be executed in duplicate. If the tenant releases his rights in the minerals and grants any facilities for working the same the release and grant may be inserted in the agreement which should then be executed under seal. Though the mines and minerals included in the copyhold tenement are enfranchised, the rights in relation thereto are not affected unless expressly included as in paragraph 1.

The undertaking in paragraphs 2 and 3 will be omitted where a mortgagee or trustee retains the documents.]

The FIRST SCHEDULE referred to in the above Agreement.

DESCRIPTION OF THE LAND AFFECTED BY THE MANORIAL
INCIDENTS.

[Note this description will be taken from the Court Rolls, unless a new description is agreed to. In default of agreement the party requiring a plan or new description must bear any additional costs incident thereto.]

The SECOND SCHEDULE referred to in the above Agreement.

FIRST PART.

Particulars of documents relating to the said Manor and retained by the said

SECOND PART.

Particulars of documents relating to the said land and retained by the said

FORM No. 2. RECEIPT FOR RENTS, &C. AND GROSS SUM TO BE ENDORSED ON THE COMPENSATION AGREEMENT.

The Manor of _____ in the County of _____

1. The within-named lord of the above-mentioned manor hereby acknowledges that all rents, fines, reliefs, heriots and fees payable in respect of the land referred to in the within Agreement have been duly discharged.

2. The said lord [or The within named _____ and
 (as trustees for the purposes of the Settled
 Land Acts of the Vesting Deed affecting the said manor or other

the proper description of the persons who would be entitled to give a receipt for the proceeds of the sale if the manorial incidents were sold)] hereby acknowledge[s] the receipt of the Compensation money by the within written Agreement agreed to be paid and all interest (if any) due thereon.

Dated this day of 19 .

[NOTE.—Paragraph 2 will only be used when the compensation is paid in a single gross sum. If a rentcharge is created separate receipts must be given as and when each instalment is paid.]

Section 139.

PART II

SCALE OF COMPENSATION FOR EXTINGUISHMENT OF MANORIAL INCIDENTS.

Fines Arbitrary.

- 1 In fine arbitrary cases where a fine is payable on alienation by, as well as on the death of, a tenant, the compensation for fines shall not exceed the number of years' annual value of the land according to the age of the tenant as set forth in the table annexed to this schedule.
- 2 The table is calculated on the principle that a fine based on two years' annual value is payable on each change of tenancy ; therefore, in those manors in which the customary fine on alienation by, or on the death of, a tenant, is based on more or less than two years' annual value, a proportionate increase or reduction shall be made in the amount of the compensation,
- 3 In estimating the annual value of the land, no deduction shall be made for land tax or landlord's property tax, but the quit rent shall be deducted, and, where there are buildings, allowance shall be made for keeping the buildings in repair. In default of agreement the gross annual value of the land as separately assessed for the purposes of Schedule A. of the Income Tax Act, shall (save as hereinafter provided and unless the Minister for any special reason otherwise directs) be used as the basis for ascertaining the annual value : Provided that either party may in any case require the annual value to be assessed by an agreed valuer or by a valuer appointed by the Minister.
- 4 Where there are facilities for improvement or the land has a present or prospective building value, one twentieth part of the capital value of the land as freehold to be determined (in default of agreement) by a valuer appointed by the Minister, shall be used as a basis for ascertaining the annual value.

Fines Certain.

- 5 In fine certain cases where a fine is payable on alienation by, as well as on the death of, a tenant, the compensation for fines shall be calculated by multiplying the amount of the fine by one half of the number of years' purchase given in the table according to the age of the tenant.

Status: This is the original version (as it was originally enacted).

Reliefs.

- 6 The amount of compensation for a relief shall be calculated in like manner as a fine certain.

Heriots.

- 7 The compensation for a heriot payable on alienation by, as well as on the death of, a tenant, shall be calculated by multiplying the value of the heriot by one half of the number of years' purchase given in the table according to the age of the tenant.
- 8 The value of a heriot shall be ascertained from the average value of the last three heriots taken or paid in respect of the land enfranchised. If that information cannot be obtained without undue expense the following circumstances shall be taken into account in fixing the value of the heriot, namely, the nature of the heriot, the character and value of the land, the condition in life of the tenant, and whether the heriot can be seized without as well as within the manor.

When Fine or Heriot payable only on one of the Events of Alienation or Death.

- 9 The table being calculated on the assumption that fines and heriots are payable both on alienation inter vivos by a tenant and on his death, when a fine, whether arbitrary or certain or a heriot, is payable only on one of those events, then only one half of the compensation calculated as previously directed shall be given.

When Fine or Heriot payable on Death of Lord.

- 10 In manors in which fines or heriots are payable on the death of the lord, as well as on alienation by, or on the death of, a tenant, the compensation on the extinguishment of manorial incidents shall be increased according to the nature and amount of the customary fine or heriot payable in the manor on the death of the lord.

Quit Rents and other Annual Payments.

- 11 The compensation for quit rents, free rents, and other annual rents, services, or payments, shall be calculated at 20 years' purchase.

Timber.

- 12 Compensation for timber shall be ascertained as follows :—Where by a special custom of the manor the lord can enter upon the land, and cut and carry away the timber -without the consent of the tenant, its whole value, after making a sufficient allowance for repairs, shall be given to the lord. But where there is no special custom, so that the ordinary law of copyholds is applicable and therefore the lord cannot enter and cut without the consent of the tenant, one half only of its value, after making a sufficient allowance for repairs, shall be given. If there be any other special custom in the manor relating to timber, such custom shall be regarded.

Other Incidents.

- 13 The compensation for all incidents of copyhold tenure extinguished or not saved by virtue of this Act and not otherwise provided for shall be 20 per cent. of the annual value of the land ascertained as provided in paragraphs 3 and 4.

This paragraph extends to forfeitures, whether or not for the conveyance or attempted conveyance of an estate of freehold in the land or for alienation without licence by way of sale, lease, mortgage, or otherwise:

Provided that, where by the custom of the manor the tenant has an unrestricted right of demising and otherwise dealing with the land without the licence of the lord, no compensation shall be payable under this paragraph unless the Minister otherwise determines; and where the unrestricted right relates to part only of the land the compensation shall be adjusted accordingly.

Perpetually Renewable Copyholds.

- 14 In the case of perpetually renewable copyhold land the compensation for the extinguishment of the manorial incidents payable on renewal shall be 20 years purchase of the yearly rent (including additional rent) which would have been payable under the 15th Schedule to this Act if that Schedule were applicable, and until the incidents are extinguished the said rent (including as aforesaid) shall be payable as a quit or free rent in respect of the land, and except in so far as the same shall have been paid shall be added to the compensation.

Escheat and other Rights reserved.

- 15 The right of escheat being abolished for the benefit of the Crown, or the Duchy of Lancaster or the Duke of Cornwall, its value is not to be taken into consideration.
- If any rights reserved to the lord by the Twelfth Schedule to this Act are acquired by the tenant, the amount of the compensation therefor shall be ascertained by agreement.

When Land held by joint Tenants or on behalf of Tenants in common.

- 16 In the case of an extinguishment of manorial incidents by joint tenants, the compensation for fines, and heriots, if any, shall be based upon such a single life as may be equivalent to the expectation of survivorship of the joint lives according to the rules and tables appended to the Succession Duty Act, 1853. This provision shall apply to an extinguishment of manorial incidents by trustees for sale (whose expectation of survivorship shall be taken into account) on behalf of persons interested as co-parceners or tenants in common in the net proceeds of sale.

Interest.

- 17 Interest shall be payable half-yearly on the amount of the compensation at the rate of five and a half pounds per cent. per annum from the date of the agreement or notice requiring the ascertainment of the compensation to the date of payment of the compensation, unless the compensation is paid by way of an annual terminable rentcharge under this Act.

Date of Computation.

- 18 The value of any matter to be taken into account in ascertaining the compensation payable shall be calculated as at the date of the extinguishment. Table referred to in the foregoing: Schedule, providing a Scale of Compensation for Extinguishment of Manorial Incidents.

Status: This is the original version (as it was originally enacted).

Age of Tenant.	Number of Years' Purchase.
5 or under }	1.06
6	1.09
7	1.11
8	1.14
9	1.16
10	1.19
11	1.21
12	1.24
13	1.26
14	1.29
15	1.31
16	1.34
17	1.37
18	1.39
19	1.42
20	1.45
21	1.48
22	1.51
23	1.53
24	1.56
25	1.59
26	1.62
27	1.65
28	1.68
29	1.71
30	1.74
31	1.77
32	1.80
33	1.83
34	1.86
35	1.90

In constructing this Table a fine arbitrary on admission has been taken as based on two years' annual value, and whilst the average fine interval has been assumed to be 14 years, regard has been had to the age of the tenant.

Where the enfranchised land is by this Act made to vest in a corporation the same compensation shall be payable as if 40 years were the age of the tenant.

Age of Tenant.	Number of Years' Purchase.
36	1.93
37	1.96
38	2.00
39	2.03
40	2.07
41	2.10
42	2.14
43	2.17
44	2.21
45	2.25
46	2.29
47	2.33
48	2.36
49	2.40
50	2.44
51	2.48
52	2.52
53	2.56
54	2.60
55	2.65
56	2.69
57	2.73
58	2.77
59	2.81
60	2.85
61	2.89
62	2.93
63	2.97
64	3.01
65	3.05
66	3.09

In constructing this Table a fine arbitrary on admission has been taken as based on two years' annual value, and whilst the average fine interval has been assumed to be 14 years, regard has been had to the age of the tenant.

Where the enfranchised land is by this Act made to vest in a corporation the same compensation shall be payable as if 40 years were the age of the tenant.

Status: This is the original version (as it was originally enacted).

Age of Tenant.	Number of Years' Purchase.
67	3.13
68	3.17
69	3.20
70	3.24
71	3.28
72	3.31
73	3.35
74	3.38
75	3.41
76	3.45
77	3.48
78	3.51
79	3.54
80	3.56
81	3.59
82	3.62
83	3.64
84	3.67
85	3.69
86	3.71
87	3.73
88	3.75
89	3.77
90	3.79
91	3.80
92	3.82
93	3.83
94	3.85
95	3.86
96	3.87
97	3.89

In constructing this Table a fine arbitrary on admission has been taken as based on two years' annual value, and whilst the average fine interval has been assumed to be 14 years, regard has been had to the age of the tenant.

Where the enfranchised land is by this Act made to vest in a corporation the same compensation shall be payable as if 40 years were the age of the tenant.

Age of Tenant.	Number of Years' Purchase.
98	3.90
99	3.91
100	3.92
101	3.93
102	3.94
103 or upwards }	3.96

In constructing this Table a fine arbitrary on admission has been taken as based on two years' annual value, and whilst the average fine interval has been assumed to be 14 years, regard has been had to the age of the tenant.

Where the enfranchised land is by this Act made to vest in a corporation the same compensation shall be payable as if 40 years were the age of the tenant.

FOURTEENTH SCHEDULE

Section 139.

SCALE OF STEWARD'S COMPENSATION FOR LOSS OF OFFICE.

In fine arbitrary cases.	In fine certain cases.	Amount of compensation to the steward.		
		£	s.	d.
Where the compensation to the Lord—	Where the compensation to the Lord—			
Does not exceed 1l.	Does not exceed 12s.	0	7	6
Exceeds 1l. but does not exceed 5l.	Exceeds 12s. but does not exceed 3l.	0	15	0
Exceeds 5l. but does not exceed 10l.	Exceeds 3l. but does not exceed 6l.	1	10	0
Exceeds 10l. but does not exceed 15l.	Exceeds 6l. but does not exceed 9l.	3	0	0

1. A steward appointed after the passing of this Act shall not be entitled to compensation for loss of office.
2. Where the compensation agreement, or notice to ascertain the compensation, relates to more than one tenement, the steward's compensation shall be calculated on the amount of the compensation payable to the lord under the agreement or notice.
3. The remuneration of solicitors in connexion with the extinguishment of manorial incidents shall from time to time be prescribed and regulated by general orders made by the Committee in England constituted or nominated under section two of the Solicitors Remuneration Act, 1881, and that the Act shall apply accordingly, and, if any dispute arises as to costs or expenses, the same shall be taxed by the registrar of the county court.
4. Where the lord is a solicitor, he shall, if he acts for himself, be entitled to costs and expenses in place of the steward, but (there being no steward) not to any steward's compensation unless otherwise agreed.

Status: This is the original version (as it was originally enacted).

In fine arbitrary cases.	In fine certain cases.	Amount of compensation to the steward.		
Exceeds 15l. but does not exceed 20l.	Exceeds 9l. but does not exceed 12l.	4	10	0
Exceeds 20l. but does not exceed 25l.	Exceeds 12l. but does not exceed 15l.	6	0	0
Exceeds 25l. but does not exceed 50l.	Exceeds 15l. but does not exceed 30l.	9	0	0
Exceeds 50l. but does not exceed 100l.	Exceeds 30l. but does not exceed 60l.	10	10	0
For every additional 25l. or fractional part of 25l. over and above the first 100l.	For every additional 15l. or fractional part of 15l. over and above the first 60l.	0	7	6

1. A steward appointed after the passing of this Act shall not be entitled to compensation for loss of office.
2. Where the compensation agreement, or notice to ascertain the compensation, relates to more than one tenement, the steward's compensation shall be calculated on the amount of the compensation payable to the lord under the agreement or notice.
3. The remuneration of solicitors in connexion with the extinguishment of manorial incidents shall from time to time be prescribed and regulated by general orders made by the Committee in England constituted or nominated under section two of the Solicitors Remuneration Act, 1881, and that the Act shall apply accordingly, and, if any dispute arises as to costs or expenses, the same shall be taxed by the registrar of the county court.
4. Where the lord is a solicitor, he shall, if he acts for himself, be entitled to costs and expenses in place of the steward, but (there being no steward) not to any steward's compensation unless otherwise agreed.

FIFTEENTH SCHEDULE

Section 145.

PROVISIONS RELATING TO PERPETUALLY RENEWABLE LEASES AND UNDERLEASES.

Conversion of perpetually renewable leases into long terms.

- 1 (1) Land comprised in a perpetually renewable lease which was subsisting at the commencement of this Act shall, by virtue of this Act, vest in the person who at such commencement was entitled to such lease, for a term of two thousand years, to be calculated from the date at which the existing term or interest commenced, at the rent and subject to the lessees' covenants and conditions (if any) which under the lease would have been payable or enforceable during the subsistence of such term or interest.
- (2) The rent, covenants and conditions (if any) shall (subject to the express provisions of this Act to the contrary) be payable and enforceable during the subsistence of the

term created by this Act; and that term shall take effect in substitution for the term or interest created by the lease, and be subject to the like power of re-entry (if any) and other provisions which affected the term or interest created by the lease, but without any right of renewal.

Conversion of perpetually renewable under-leases into long terms.

- 2 (1) Land comprised in any underlease, which at the commencement of this Act was perpetually renewable and was derived out of a head term affected by this Act, shall, by virtue of this Act, vest in the person who at such commencement was entitled to the subterm or interest for a term of two thousand years less one day, to be calculated from the date at which the head term created by this Act commenced, at the rent and subject to the underlessee's covenants and conditions (if any) which under the underlease would have been payable or enforceable during the subsistence of such subterm or interest.
- (2) The rent, covenants and conditions (if any) shall (subject to the express provisions of this Act to the contrary) be payable and enforceable during the subsistence of the sub-term created by this Act; and that subterm shall take effect in substitution for the subterm or interest created by the underlease, and be subject to the like power of re-entry (if any) and other provisions which affected the subterm or interest created by the underlease, but without any right of renewal.
- (3) The foregoing provisions of this section shall also apply to any perpetually renewable subterm or interest which, at the commencement of this Act, was derived out of any other subterm or interest, but so that in every case the subterm created by this Act shall be one day less in duration than the derivative term created by this Act, out of which it takes effect.

Incidence of equities, incumbrances, and sub-terms.

- 3 (1) Every term or subterm created by this Part of this Act shall be subject to all the same trusts, powers, executory limitations over, rights and equities (if any), and to all the same incumbrances and obligations of every kind, as the term, subterm, or other interest which it replaces would have been subject to if this Part of this Act had not been passed, but without prejudice to the provisions of Part I. of this Act, and where an infant is entitled, the person, of full age, who by virtue of that part of this Act, becomes entitled to the legal estate of the infant shall be deemed to have been entitled to the said lease, sub-term or interest at the commencement of this Act.
- (2) Where any subterm or interest, subsisting at the commencement of this Act, was derived out of a lease or underlease affected by this Act, but was not perpetually renewable, the same shall be deemed to take effect out of the term created by this Act or out of any derivative subterm so created, as the case may require.

Title acquired and stamps.

- 4 (1) This Part of this Act shall not operate to confer any better title to any term or subterm hereby created than the title to the perpetually renewable term, subterm, or interest which it replaces.
- (2) This Act shall not render any lease or instrument which has been duly stamped according to the law in force at its date, liable to be further stamped, nor shall any

stamp duty be payable by reason only of the creation by this Act of any term or subterm.

Dispositions purporting to create perpetually renewable leaseholds.

- 5 A grant, after the commencement of this Act, of a term, subterm, or other leasehold interest with a covenant or obligation for perpetual renewal, which would have been valid if this Part of this Act had not been passed, shall (subject to the express provisions of this Act) take effect as a demise for a term of two thousand years or in the case of a subdemise for a term less in duration by one day than the term out of which it is derived, to commence from the date fixed for the commencement of the term, subterm, or other interest, and in every case free from any obligation for renewal or for payment of any fines, fees, costs, or other money in respect of renewal.

Satisfaction of existing contracts to grant perpetually renewable interests.

- 6 (1) Any obligation in force at the commencement of this Act for the grant (otherwise than by way of renewal) of a lease, subterm, or other leasehold interest with a covenant or obligation for perpetual renewal shall be deemed to be an obligation for the grant of a lease for a term of two thousand years, or, in the case of an underlease, for a term less in duration by one day than the term out of which it is to be derived, but the amount of the rent to be paid shall, if necessary be adjusted, having regard to the loss of fines and other payments (if any) which would have been payable on renewal.
- (2) In case any dispute arises respecting the adjustment of the rent, the matter shall be submitted to the Minister for determination, in the manner provided by this Act.

Future contracts for renewal and as to leases for lives.

- 7 (1) Any contract entered into after the commencement of this Act, for the grant of a lease, subterm, or other leasehold interest with a covenant or obligation for perpetual renewal shall (subject to the express provisions of this Part of this Act) operate as an agreement for a demise for a term of two thousand years, or in the case of a contract for a subdemise, for a term less in duration by one day than the term out of which it is derived, to commence from the date agreed for the commencement of the term, subterm or other interest, and in every case free from the obligation for renewal or for payment of any fines, fees, costs or other money in respect of renewal.
- (2) Any contract entered into after such commencement for the renewal of a lease or underlease for a term exceeding sixty years from the termination of the lease or underlease, and whether or not contained in the lease or underlease, shall (subject to the express provisions of this Part of this Act) be void.
- (3) Any lease or underlease, at a rent, or in consideration of a fine, for life or lives or for any term of years determinable with life or lives, or on the marriage of the lessee, or any contract therefor, made before or after the commencement of this Act, or created by virtue of Part V. of this Act, shall take effect as a lease, underlease or contract therefor, for a term of ninety years determinable after the death or marriage (as the case may be) of the original lessee, or of the survivor of the original lessees, by at least one month's notice in writing given to determine the same on one of the quarter days applicable to the tenancy, either by the lessor or the persons deriving title under him to the person entitled to the leasehold interest, or if no such person is in existence by affixing the same to the premises, or by the lessee or other persons in whom the leasehold interest is vested to the lessor or the persons deriving title under him ; but

this subsection does not apply to any term taking effect in equity under a settlement or created out of an equitable interest under a settlement for mortgage indemnity or other like purposes. The person in whom the leasehold interest is vested by virtue of Part V. of this Act shall, for the purposes of this subsection, be deemed an original lessee :

Provided that, if the lease, underlease, or contract therefor is made determinable on the dropping of the lives of persons other than or besides the lessees, then the notice shall be capable of being served after the death of any person or of the survivor of any persons (whether or not including the lessees) on the cesser of whose life or lives the lease, underlease, or contract is made determinable, instead of after the death of the original lessee or-of the survivor of the original lessees.

Effect of powers to grant renewable leases.

- 8 (1) Every power conferred by custom or contained in a statute (except as hereinafter mentioned) or other instrument authorising a tenant for life of full age, statutory owner, trustee, or other person to grant a lease or underlease with a covenant or obligation for perpetual renewal, shall have effect, in regard to any grant made after the commencement of this Act, as if the same authorised the grant of a lease or underlease for a term not exceeding two thousand years at the best rent that can be reasonably obtained, having regard to any fine which may be taken and to all the circumstances of the case, or, if the power authorises a grant at a peppercorn rent or other rent less than the best rent, then at any rent so authorised.
- (2) Every power to grant a lease or underlease at a rent or in consideration of a fine for life or lives, or for any term of years determinable with life or lives or on the marriage of any person, shall have effect in regard to any grant made after the commencement of this Act, as if the same authorised the grant of a lease or underlease for a term not exceeding ninety years determinable after the death or marriage (as the case may be) of the original lessee or of the survivor of the original lessees by at least one month's notice in writing given to determine the same on one of the usual quarter days, either by the lessor or the persons deriving title under him to the person entitled to the leasehold interest, or by the lessee or other persons in whom the leasehold interest is vested to the lessor or the persons deriving title under him.

Saving of rights and powers under 8 Edw. 7. c. 36.

- 9 Nothing in this Act shall prejudicially affect any right of renewal conferred by section forty-four of the Small Holdings and Allotments Act, 1908, or the power conferred by section forty of that Act, to grant leases for the purposes of that Act, with a similar right of renewal.

Powers and covenants implied in leases and underleases affected.

- 10 (1) Every lease or underlease which, by virtue of this Part of this Act, takes effect for a term of two thousand years or for a derivative term of two thousand years less one or more days (as the case may require) shall be deemed to contain—
- (i) A power (exerciseable only with the consent of the persons, if any, interested in any derivative interest which might be prejudicially affected) for the lessee or underlessee by giving notice in writing to the lessor at least ten days before the lease or underlease would but for this Act) have expired if it had not been renewed after the commencement of this Act, to determine the lease or

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underlease at the date on which (but for this Act) it would have expired if it had not been renewed as aforesaid ;

Also a like power (exercisable with the like consent if any) to determine subsequently by notice as aforesaid the lease or underlease at the time at which, if this Act had not been passed and all renewals had in the meantime been made in due course, the lease or underlease would have expired if it had not been further renewed after the date of the notice:

Provided that if any such notice be given all uncommuted additional rent attributable to a fine or other money which, if this Act had not been passed, would have been payable on a renewal made after the date of the notice, shall not become payable:

(ii) A covenant by the lessee or underlessee to register every assignment or devolution of the term or subterm, including all probates or letters of administration affecting the same, with the lessor or his solicitor or agent, within six months from the date of the assignment, devolution, or grant of probate or letters of administration, and to pay a fee of one guinea (which shall be accepted in satisfaction of all costs) in respect of each registration; and the covenant so deemed to be contained shall be in substitution for any express covenant to register with the lessor or his solicitor or agent, assignments or devolutions of the term or sub-term, and to pay fees or costs in respect of such registration:

(iii) A covenant by the lessee or underlessee within one year from the commencement of this Act to produce his lease or underlease or sufficient evidence thereof (including an assignment of part of the land comprised in the lease or underlease) with any particulars required to show that a perpetual right of renewal was subsisting at the commencement of this Act, to the lessor or his solicitor or agent, who shall, subject to the payment of his costs, if the right of renewal is admitted or proved, endorse notice of that fact on the lease, underlease, assignment, or copy thereof, at the expense of the lessee or underlessee; and such endorsement signed by or on behalf of the lessor shall, in favour of a purchaser, be sufficient evidence that the right of renewal was subsisting as aforesaid, either in respect of the whole or part of the land as the case may require :

and the power of re-entry (if any) contained in the lease or underlease shall apply and extend to the breach of every covenant deemed to be contained as aforesaid.

(2) If any dispute arises respecting the date on which a notice is authorised to be served by this section, or whether or not a lease or underlease or assignment or a copy thereof ought to be endorsed as aforesaid, the matter shall be submitted to the Minister for determination in the manner provided by this Act.

Liability of lessees and underlessees.

11 (1) In the case of every term or subterm created by this Act or under any power conferred by this Part of this Act, each lessee or underlessee, although he may be the original lessee or underlessee, and notwithstanding any stipulation to the contrary, shall be liable only for rent accruing and for breaches of covenants or conditions occurring while he or his personal representatives shall have the term or subterm vested in him or them, and in like manner, as respects an original lessee or underlessee, as if the term or subterm had, immediately after its creation, been assigned to him.

- (2) Nothing in this Part of this Act shall affect the liability of any person in respect of rent accruing or the breach of any covenant or condition occurring before the commencement of this Act.

Conversion of fines into additional rent.

- 12 (1) Where, under the lease, underlease, or otherwise, any fine or other money, including a heriot, is payable by the lessee or underlessee on renewal, then and in every such case the like amount as would have been payable if this Act had not been passed and the lease or underlease or all successive leases or underleases have been renewed in due course shall, save as in this Act provided and unless commuted, become payable to the lessor as additional rent, during the subsistence of the term or subterm created by this Act, by as nearly as may be equal yearly instalments the first instalment to be paid at the end of one year from the commencement of this Act; but no sums payable for costs of examination of the lessee's or underlessee's title or of granting a new lease or underlease or of any other work which is rendered unnecessary by this Act shall be taken into account in ascertaining the additional rent.
- (2) Where the lessee or underlessee was entitled to renew at different times and the amount payable on renewal varied according to the time selected for renewal under a sliding scale or otherwise, then for the purpose of ascertaining the amount of the annual instalments of additional rent the fines and other payments shall be deemed to have been payable on the last day on which the lessee or underlessee would have been entitled to renew the lease or underlease if it had remained renewable, regard being had to the date of the last renewal.
- (3) But where the time at or within which the said fine or other money must be paid is not definitely fixed by or ascertainable from the lease or underlease the same shall, for the purpose of ascertaining the amount of the annual instalments of additional rent, be deemed to have been payable on such date as may, within one year from the commencement of this Act, be agreed between the lessor and the lessee or underlessee and, in default of such agreement, as may be fixed by the Minister.
- (4) The additional rent shall be deemed part of the rent reserved by the lease or underlease for all purposes, including any covenant for payment of rent or proviso for re-entry contained in the lease or underlease.
- (5) Subject to any order by the Minister or the court to the contrary, and in default of agreement, the amount of each annual instalment of additional rent shall be ascertained by dividing the aggregate amount payable by the lessee or under-lessee on renewal by the number of years which represents the interval or average interval occurring between the dates of renewal.
- (6) If the lessee or underlessee is liable to forfeit his right of renewal if he makes default in payment of a fine or other money or in doing any other act or thing within a time ascertainable by the dropping of a life, but not otherwise, then five per cent. of the annual value of the land (ascertained as provided by this Act in the case of enfranchised land for the extinguishment of manorial incidents) shall be treated as added to the fines and other money payable by the lessee or under-lessee on renewal for the purpose of ascertaining the amount of the annual instalment of additional rent, and as compensation to the lessor for loss of his right of re-entry (present or future) which would have accrued by reason of any failure to exercise the right of renewal.

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Interest on fines.

- 13 (1) Where, under the lease or underlease, any unpaid fine or other money payable on a renewal carries interest, then any annual instalment of additional rent payable in lieu thereof shall, until paid, carry interest from the date on which the instalment becomes payable, and at the same rate at which such interest would have been payable if this Act had not been passed.
- (2) Where the lease or underlease does not provide for payment of such interest, then each annual instalment of additional rent shall, until paid, carry interest at the current rate from the time when demand in writing is made claiming the money.

Provisions respecting commutation of additional rent and other matters.

- 14 (1) The lessor and lessee or underlessee may agree—
- (a) For the commutation or discharge of any claims in respect of additional rent;
 - (b) The amount (if any) of the annual instalments of additional rent payable;
 - (c) The dates for payment of additional rent;
 - (d) The interval or average interval between dates of renewal ;
 - (e) The dates on which the lessee or underlessee has power under this Act to determine the lease or underlease ;
 - (f) The amount of the rent (including the annual instalments of additional rent) to be apportioned in respect of any part of the land comprised in the lease or underlease, and thereupon the lessee's or underlessee's covenants shall be apportioned in regard to the land to which the apportionment relates.
- (2) A statement in writing respecting any such agreement, which is endorsed on any such lease or underlease, or the counterpart or assignment, and signed by the lessor and lessee or underlessee, shall be conclusive evidence of the matters stated, and the costs of and incidental to the agreement and any negotiations therefor shall be borne by the lessee or underlessee.
- (3) The additional rent may, by such endorsement, be made payable by instalments at the times at which the original rent is made payable or otherwise.

Compensation of lessor's agents.

- 15 Any claims for compensation by any officer, solicitor, or other agent of the lessor in respect of fees or remuneration (not being remuneration attributable to work rendered unnecessary by this Act) which would have been payable by the lessee or underlessee on any renewal, if this Act had not been passed, shall be treated as part of the fines or other money payable to the lessor and be discharged out of the additional rent or commutation money or otherwise by the lessor, and the lessee or underlessee shall not otherwise be concerned therewith.

Disputes to be submitted to the Minister.

- 16 (1) If the lessor and lessee or underlessee or the lessor's agent (as the case may require) do not agree, or any dispute arises as to the amount or date for payment of any annual instalment of additional rent, or the amount for which the same ought to be commuted, or the amount at which any rent ought to be adjusted, or apportioned, or the amount of compensation (if any) payable by the lessor to his officer, solicitor or other agent, the question or dispute shall be submitted to the Minister for

determination, when the parties may be represented by solicitors or counsel, and the award of the Minister shall (subject only to such appeal to the court as may be prescribed by rules of court) be final,

- (2) The Minister may issue regulations in respect of any of the matters aforesaid, and determine by whom and in what proportions the cost of any application to the Minister shall be paid.
- (3) If a dispute as to the amount for which any annual instalment of additional rent ought to be commuted is submitted to the Minister, and if the lessor would (under the lease or under lease subsisting at the commencement of this Act, or any lease or underlease which would have been subsisting if this Act had not been passed and the successive renewable leases or underleases had been renewed in the ordinary course) have had a right to refuse renewal by reason of a default in payment of a fine, then the Minister shall, in the arbitration, have regard to the value of such right (unless compensation has been given for the loss of the right) in like manner as if a corresponding absolute right to determine the term or subterm created by this Act had, by reason of a corresponding default, been made exercisable by the lessor at the time at which the renewable lease or underlease would have expired if the lessor had lawfully refused to renew it.

Power to raise and apply capital for commuting additional rent.

- 17 (1) A power authorising a tenant for life of full age, statutory owner, trustee, or other person to apply or direct the application of or raise any money for or in the discharge of the costs, fines, and other sums payable on the renewal of any such lease or underlease shall be deemed to authorise the payment, application, or raising of money for the commutation of any additional rent made payable by this Act.
- (2) Out of the money so applicable or raiseable, the lessor may discharge any compensation payable to his officer, solicitor, or other agent.
- (3) If the reversion is settled land, or held on trust for sale, any commutation money shall be treated as capital money or proceeds of sale arising from such land (as the case may require).
- (4) If the land comprised in the lease or underlease is settled land or held on trust for sale, the commutation money may be paid out of capital money or personal estate (not being chattels real) held on the same trusts as the land.

Notices.

- 18 The provisions of section sixty-seven of the Conveyancing Act, 1881, shall apply to any notice required or authorised to be given under this Part of this Act or under any provision implied by this Part of this Act.

Registered leases and underleases.

- 19 Where any lease or underlease to which this Part of this Act applies is registered under the Land Transfer Acts, effect shall be given to the provisions of this Act by making such alterations in the register as may be prescribed under those Acts.

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Office copies and searches.

- 20 (1) The original or counterpart of any lease or underlease or assignment to which this Part of this Act applies may be deposited at the Central Office of the Supreme Court.
- (2) A separate file of instruments so deposited shall be kept, and any person who furnishes the prescribed evidence to show that he has a sufficient interest in the lease or underlease or reversion expectant thereon may search that file and inspect the lease or underlease or counterpart or assignment, and an office copy thereof shall be delivered to him at his request.
- (3) A copy of an instrument so deposited, with any plan or endorsements thereon, may be presented at any time at the Central Office, and, if found correct, may be stamped as an office copy, and when so stamped shall become and be an office copy.
- (4) An office copy of the instrument so deposited with the plan and endorsements (if any) shall without further proof be sufficient evidence of the contents of the instrument, plan, and endorsements (if any), and of the deposit thereof at the Central Office.
- (5) Where an instrument so deposited has perished or become undecipherable, an office copy thereof may be similarly deposited, and office copies thereof may be issued in -lieu of office copies of the original, and the provisions of this section shall apply thereto as if office copies so issued were office copies of the original instrument.
- (6) General rules may be made for the purposes of this section prescribing the evidence to be furnished before a search is authorised, regulating the practice of the Central Office, and prescribing, with the concurrence of the Treasury, the fees to be taken therein.

SIXTEENTH SCHEDULE

Section 166.

AMENDMENTS OF THE LAND TRANSFER ACTS.

PART I

AMENDMENTS AND REPEALS OF THE ACT OF 1875 AS VARIED BY THE ACT OF 1897.

Sections referred to.

- 1 References to sections in this Part of this Schedule shall be construed as references to sections of the Act of 1875 unless the contrary is stated.

Definitions.

- 2 (1) Section two is hereby repealed.
- (2) In the Acts, unless the context otherwise requires,—
- " Legal estate, " " term of years absolute, " " land, " " mines and minerals, "
 " tenant for life of full age, " " statutory owner, " " settled land, " " settlement,
 " " vesting deed, " " vesting order, " " vesting assent, " " vesting instrument,
 " " trust deed, " " trustees of the settlement, " " personal representative, "
 " capital money, " " trust for sale, " " trustees for sale, " " defective, " "

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instrument, " " charge by way of legal mortgage, " " Gazette, " " possession, " " income, " " court, " " death duty." " local land charge, " and " manorial incidents " have the same meanings as in the Law of Property Act, 1922 ;

" Settled Land Acts " mean the Settled Land Acts, 1882 to 1922, or any Act amending or consolidating the same ;

" Proprietor " means the registered proprietor for the time being of land or a charge ;

" Registered land " includes any easement, right, privilege, or benefit which is appurtenant or appendant thereto, and any mines and minerals within or under the same and held therewith ;

" Registered estate, " in reference to land, means the legal estate, or other registered interest (if any) for the time being held by the person who is registered as proprietor of the land, and a "registered charge" includes a mortgage or incumbrance registered as a charge ;

" Overriding interests " mean all the incumbrances, interests, rights, and powers (except minor interests protected on the register) which by the Acts are made paramount to the registered estate and subject to which registered dispositions are to take effect, and include the matters which are by section eighteen (as amended) or otherwise declared not to be incumbrances;

" Minor interests " mean the interests not capable of being disposed of or created by registered dispositions but capable of being overridden by the proprietor unless protected as provided by the Acts; and include all the interests and powers which in the case of land held on trust for sale are under Part I. of the Law of Property Act, 1922, capable of being overridden by the trustees for sale, and in the case of settled land are, under that Act and the Settled Land Acts, capable of being overridden by the tenant for life of full age or statutory owner, as well as all rights and interests which are not registered, or protected on the register, and are not overriding interests;

" Registered dispositions " mean dispositions which take effect under the powers conferred on the registered proprietor of the land or of a charge by way of transfer, charge, mortgage or otherwise and to which (when required to be registered) special effect is given by the Acts on registration;

" Purchaser " includes a lessee, mortgagee, or other person who for valuable consideration acquires any interest in land or in any charge on land ;

" Valuable consideration " includes marriage, but does not include a nominal consideration in money:

" Lease " includes any tenancy or agreement for a lease or tenancy ;

" The Limitation Acts " mean the Real Property Limitation Acts," 1833, 1837 and 1874, and any Act amending the same; References to the Crown's right to "escheat" shall be construed as referring to "bona vacantia."

- (3) The definition relating to " Courts, " and the reference to the meaning of " land " (as amended by the Act of 1897) in section four are repealed.

Application for registration by intending purchasers and as to examination of title.

- 3 (1) Notwithstanding anything contained in sections five, eleven and sixty-eight, a person who has merely contracted to buy land shall not be entitled to apply for registration.
- (2) If on an application for registration with possessory title, the registrar is satisfied as to the title he may register it as absolute or good leasehold, whether the applicant

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consents to such registration or not, but in that case no higher fee shall be charged than would have been charged for registration with possessory title.

Application for registration of leaseholds.

- 4 (1) In section eleven, subsection (1), the words " for a life or lives, or determinable on a life or lives, or " are hereby repealed.
- (2) The amendment of section eleven contained in the Act of 1897 shall only apply where a right of redemption is subsisting in the mortgage term; but where on an application to register a mortgage term, it appears that the applicant is entitled in equity to the superior term (if any) out of which it was created, the registrar shall (except where the mortgage term does not comprise the whole of the land included in the superior term unless in that case the rent, if any, payable in respect of the superior term has been apportioned, or the rent is of no money value or no rent is reserved, and unless the covenants (if any) entered into for the benefit of the reversion have been apportioned (either expressly or by implication) as respects the land comprised in the mortgage term) register him as proprietor of the superior term without any entry to the effect that the legal interest in that term is outstanding, and on such registration the superior term shall vest in the proprietor and the mortgage term shall merge therein.
- (3) Sections twelve, fourteen, fifteen, and sixteen are hereby repealed.

Overriding interests.

- 5 (1) The words " succession duty " in subsection (2) of section eighteen and the words " estate duty " in the amendment of section eighteen in the First Schedule to the Act of 1897 are hereby repealed.
- (2) Subsections (4) and (5) of section eighteen, with the amendment of those subsections contained in the First Schedule to the Act of 1897, are hereby repealed, but only as respects land registered after the commencement of this Act.
- (3) The following provisions shall be substituted for subsections (4) and (5) of section eighteen, namely:—
- (i) The rights of every person in actual occupation of the land or in receipt of the rents and profits thereof:
 - (ii) In the case of a possessory, qualified, or good leasehold title, all estates, rights, interests, and powers excepted from the effect of registration:
 - (iii) All rights under local land charges, unless and until registered or protected on the register in the prescribed manner.
- (4) The provisions (b), (c), and (d) of section eighteen (including the last paragraph of section eighteen) are hereby repealed, together with the amendment thereof relating to entry of notice of the matters in subsections (4) and (5), and of rights of re-entry and reverter, and of registration of easements, contained in the First Schedule to the Act of 1897.
- (5) In subsection (7) of section eighteen the words " granted at a rent without taking a fine " are hereby substituted for the words " in cases where there is an occupation under such tenancies. "
- (6) The following provisions shall be substituted for the last paragraph of section eighteen :—

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- (i) Where at the time of first registration any easement, right, privilege, or benefit created by an instrument and appearing on the title adversely affects the land, the registrar shall enter a note thereof on the register :
 - (ii) Where the existence of any liability, right, or interest mentioned in this section (as amended) is proved to the satisfaction of the registrar or admitted, he may (subject to any prescribed exceptions) enter notice of the same or of a claim thereto on the register, but no claim to an easement, right, or privilege not created by an instrument shall be noted against the title to the servient land if the proprietor of such land (after the prescribed notice is given to him) shows sufficient cause to the contrary,
- (7) On a disposition by a mortgagee or other person (by virtue of any interest or power which is an overriding interest) of any estate charge or right in or upon the registered land which is capable of being registered, the registrar shall, if so required, give effect to the disposition on the register.

Determination of incumbrances or registered interests.

- 6 (1) The provisions of section twenty shall apply to the notification of the determination (whole or partial) or variation of any lease, rentcharge, easement, right, or other interest in land which is noted on the register as an incumbrance, and on the determination of any registered rentcharge or other estate or interest, the registrar shall close the registered title relating thereto.
- (2) When a land charge protected by notice has been discharged as to all or any part of the land comprised therein, the notices relating thereto and to ail devolutions of and dealings therewith shall be vacated as to the registered land affected by the discharge.

Dispositions of registered freeholds by the proprietors thereof.

- 7 (1) Section twenty-nine (relating to transfers by the registered proprietor of freehold land) shall, subject to any entry to the contrary on the register, be deemed (whether the land was registered before or after the commencement of this Act) to authorise—
- (a) A transfer of the fee simple in possession in the prescribed manner of any mines or minerals apart from the surface; or of the surface without all or any of the mines and minerals; but not an undivided share in the registered land ; and
 - (b) A grant of a rentcharge in possession (either perpetual or for a term of years absolute) which sufficiently refers in the prescribed manner to the registered land charged ; and
 - (c) A transfer of the fee simple in possession of the registered land in the prescribed manner, subject to the creation thereout, by way of reservation to any person of a rentcharge in possession (either perpetual or for a term of years absolute); or of any easement, right, or privilege in possession (either in fee simple or for a term of years absolute); and
 - (d) A transfer or grant in fee simple in possession of any easement, right, or privilege, in, over, or derived from the registered land, which sufficiently refers, in the prescribed manner, to the registered servient tenement and to the dominant tenement, whether being registered land or not; and
 - (e) A lease (subject or not to the reservation of an easement, right, or privilege) of the registered land or any part thereof, or of any mines and minerals apart from the surface, or of the surface without all or any of the mines and

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minerals (but not of an undivided share in the land), or of an easement, right or privilege, in or over the land for any term of years absolute and for any purpose (but where by way of mortgage subject to the provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating thereto), and in any form which sufficiently refers, in the prescribed manner, to the registered land.

- (2) A perpetual rentcharge in possession may be granted or reserved to any person with or without a power of re-entry, exercisable at any time, on default of payment thereof, or on breach of covenant, and shall have incidental thereto all the powers and remedies (as varied by the disposition creating the rentcharge) for recovery thereof conferred by section forty-four of the Conveyancing Act, 1881 (as amended by any subsequent enactment), and an easement, right, or privilege may in a registered disposition be reserved to any person for a legal estate, and the reservation shall operate to create the same for the benefit of the land for the benefit of which the right is reserved.
- (3) All the interests transferred or created by such dispositions by the registered proprietor shall (subject to the provisions relating to mortgages) be completed by registration in the same manner and with the same effect as provided by the Acts with respect to transfers of registered land (except in the case of leases originally granted for a term not exceeding twenty-one years), and notice thereof shall (except in the case of leases granted for a term not exceeding twenty-one years at a rent without taking a fine) also be noted on the register under section fifty as amended, and every such disposition shall, when registered, take effect as a registered disposition, and a lease made by the registered proprietor under this section which is not required to be registered or noted on the register shall nevertheless take effect as a registered disposition immediately on being granted:

Provided that nothing in this subsection shall render necessary the registration of any easement, right, or privilege except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.'

- (4) A lease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof, at a rent without taking a fine may be granted and shall take effect under this section notwithstanding that a caution (including a notice of deposit), restriction or inhibition may be subsisting, but subject to the interests intended to be protected by any such caution, restriction or inhibition.
- (5) The foregoing powers of disposition shall (subject to the express provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage; but no estate, other than a legal estate shall be capable of being disposed of or created under this section.
- (6) In the Acts the expression " transfer " or " disposition, " when referring to registered freehold land, shall include any disposition authorised as aforesaid ; and " transferee " shall have a corresponding meaning.

Estate of transferee of freeholds with absolute title.

- 8 (1) In section thirty (relating to transfers, for value) the words "or lease" are hereby inserted after the words " A transfer " : the word " the" is substituted for the word " an " occurring before the words " estate in fee simple " and after the words " in fee simple " shall be inserted the words " or the term of years absolute expressed to

be created, " and after the words " land transferred " shall be inserted the words " or dealt with, " and the words " with all rights, privileges, and appurtenances belonging and appurtenant thereto " shall, subject to any entry to the contrary in the register, be deemed to include the appropriate rights and interests which would, under section six of the Conveyancing Act, 1881, have been transferred if the land had not been registered.

- (2) At the end of section thirty the following words are hereby added:— " And the transfer or lease shall operate in like manner as if the registered transferor or lessor were " (subject as aforesaid) entitled to the registered land in fee " simple in possession for his own benefit." ,
- (3) The amendment (relating to mines and minerals) of section thirty contained in the First Schedule to the Act of 1897 is hereby repealed.
- (4) In sections thirty-one, thirty-two, and thirty-three, the words " or lease " in each of those sections are hereby inserted after the words " A transfer. "
- (5) Rules may be made under section one hundred and eleven (as amended) adapting the provisions of sections thirty to thirty-three inclusive to dispositions (other than transfers and leases) authorised to be effected by the registered proprietor of the land.

Dispositions of registered leaseholds by the registered proprietor.

- 9 (1) Section thirty-four (relating to transfers by the registered proprietor of leasehold land) shall, subject to any entry to the contrary on the register, be deemed (whether the land was registered before or after the commencement of this Act) to authorise—
 - (a) A transfer in the prescribed manner of any of the leasehold mines and minerals apart from the surface ; or of the surface without all or any of the leasehold mines and minerals ; but not an undivided share in the leasehold land ; and
 - (b) A transfer reservation or grant (to the extent of the registered leasehold interest) of any rentcharge in possession, easement, right, or privilege in, over, or derived from the leasehold land, which sufficiently refers, in the prescribed manner, to the registered lease, and to the land affected or dominant tenement, whether being registered land or not; and
 - (c) A transfer of the registered land, subject to a reservation to any person of any such rentcharge, easement, right, or privilege ; and
 - (d) A subdemise (subject or not to the reservation of an easement, right, or privilege) of the registered land, or any part thereof or of any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals (but not of an undivided share in the land), or of an easement, right, or privilege, in or over the land, for any term of years absolute of less duration than the registered term and for any purpose (but where by way of mortgage, subject to the provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating thereto) and in any form which sufficiently refers in the prescribed manner, to the registered land, and in the case of an easement, right, or privilege to the dominant tenement, whether being registered land or not.
- (2) A disposition of registered leasehold land may be made subject to a rent (whether legally apportioned or not) or to a rent legally apportioned in the prescribed manner.

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- (3) All the interests transferred or created by such dispositions by the registered proprietor shall (subject to the provisions relating to mortgages) be completed by registration in the same manner and with the same effect as provided by the Acts with respect to transfers of registered leasehold land (except in the case of underleases originally granted for a term not exceeding twenty-one years); and notice thereof shall (except in the case of underleases granted for a term not exceeding twenty-one years at a rent without taking a fine), also be noted on the register under section fifty as amended, and every such disposition shall, when registered, take effect as a registered disposition, and an underlease made by the registered proprietor which is not required to be registered or noted on the register shall nevertheless take effect as a registered disposition immediately on being granted:

Provided that nothing in this subsection shall render necessary the registration of any easement, right, or privilege except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.

- (4) An underlease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof, at a rent without taking a fine, may be granted and shall take effect under this section, notwithstanding that a caution (including a notice of deposit), restriction or inhibition may be subsisting, but subject to the interests intended to be protected by any such caution, restriction or inhibition.
- (5) The foregoing powers of disposition shall (subject to the express provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage, but no estate, other than a term of years absolute, shall be capable of being disposed of or created under this section.
- (6) The last paragraph of section thirty-four commencing with the words " upon completion of the registration " to the end of that section is hereby repealed.
- (7) In the Acts the expression " transfer " or " disposition " when referring to registered leasehold land shall include any disposition authorised as aforesaid; and " transferee " shall have a corresponding meaning.

Estate of transferee for value of leaseholds with absolute title.

- 10 (1) In section thirty-five (relating to transfers for value of leaseholds) after the words " A transfer " the words " or subdemise " are hereby inserted ; and after the words " to such land " the words " or for the term created by the sub-demise as the case may require " and the words " the possession of " are hereby repealed, and the words "all implied or expressed rights, privileges and appurtenances " shall, subject to any entry to the contrary on the register, be deemed to include the appropriate rights and interests which would under section six of the Conveyancing Act, 1881, have been transferred if the land had not been registered.
- (2) At the end of section thirty-five the following words are hereby added : " And the transfer or subdemise shall operate " in like manner as if the registered transferor or sub-lessor " were (subject as aforesaid) absolutely entitled to the registered " lease for his own benefit."
- (3) Sections thirty-six and thirty-seven are hereby repealed.
- (4) In section thirty-eight after the words " have the same effect as " shall be inserted the words " may be prescribed in the case of. "

Transmission on death, and rights of husband of female proprietor.

- 11 (1) Section forty-one (relating to transmission on death) is hereby repealed, and provision shall be made by rules for the manner in which effect is to be given on the register to transmissions on death.
- (2) Sections forty-four and forty-five (relating to husbands' rights) as amended by the Act of 1897 are hereby repealed.

Dispositions off the register creating " minor interests. "

- 12 Section forty-nine (relating to dispositions off the register), with the amendment thereof (relating to severance of mines and minerals from the surface) contained in the First Schedule to the Act of 1897, is hereby repealed, and in lieu thereof the following provisions shall have effect:—
- (1) Any person, whether being the registered proprietor or not, having a sufficient estate, interest, or power in or over registered land, may dispose of, or deal with the same and create any estates, interests, or rights therein which are permissible by law, in like manner and by the like modes of assurance in all respects as if the land were not registered, but subject as provided by this section.
- (2) All estates, interests and rights disposed of or created under subsection (1) of this section (whether by the registered proprietor or any other person) shall, subject to the provisions of this section, take effect as minor interests and be capable of being overridden by registered dispositions for valuable consideration.
- (3) Minor interests shall, subject to the express exceptions contained in this section, take effect only in equity, but may be protected by entry on the register of such notices, cautions, inhibitions and restrictions as are provided for by the Acts or rules.
- (4) A minor interest in registered land subsisting or capable of taking effect at the commencement of this Act shall not fail or become invalid by reason of the same being converted into an equitable interest; but after such commencement a minor interest in registered land shall only be capable of being validly created in any case in which an equivalent equitable interest could have been validly created if the land had not been registered.
- (5) If a minor interest subsisting or capable of taking effect at the commencement of this Act, would, if this Act had not been passed have taken effect as a legal interest, then (subject and without prejudice to the estate and powers of the registered proprietor whose estate is affected) the conversion thereof into an equitable interest shall not affect its priority over other minor interests.
- (6) Priorities as regards dealings effected after the commencement of this Act, between assignees and incumbrancers of life interests, remainders, reversions and executory interests shall be regulated by the order of the priority cautions or inhibitions lodged (in a specially prescribed form) against the proprietor of the registered estate affected, but, save as aforesaid, priorities as between persons interested in minor interests, shall not be affected by the lodgment of cautions or inhibitions.
- (7) Where after the commencement of this Act the proprietor of the legal registered estate which is settled, disposes of or deals with his beneficial interest in possession in favour of a purchaser, and accordingly the minor interest disposed of or created would, but for the restrictions imposed by Part I. of the Law of Property Act, 1922, and this section on the creation of legal interests, have been a legal interest, then the

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purchaser shall (subject as provided by this section in regard to priorities) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise had the minor interest been a legal interest, and the reversion (if any) on any leases or tenancies derived out of the registered estate had been vested in him.

- (8) A minor interest created under this section shall not operate to prevent a registered estate or interest passing to the personal representative of a deceased registered proprietor, or to the survivors or survivor of two or more joint registered proprietors, nor shall this section affect the right of any person entitled to, or having any power of disposition over any overriding interest to dispose of or deal with the same.
- (9) Where by the operation of any statute or statutory or other power, or by virtue of any vesting order of any court or other competent authority, or an order appointing a person to convey, or of a vesting declaration (express or implied) appointment or other assurance, a minor interest in the registered land, being an interest or charge capable of being registered, is disposed of or created, the registered proprietor shall, subject to proper provision being made for payment of costs, be bound to give effect to the disposition, and if the registered proprietor is Unable or refuses to make the requisite disposition or cannot be found, or if for any other reason a disposition by him cannot be obtained within a reasonable time, then the registrar shall give effect thereto in the prescribed manner, and the disposition shall take effect in like manner as nearly as may be as if it had been made by the registered proprietor by a registered disposition :

Provided that—

- (a) So long as the registered proprietor has power under the Settled Land Acts or any other statute conferring special powers on a tenant for life of full age or statutory owner or under the settlement, to override the minor interest so disposed of or created, no estate or charge shall be registered which would prejudicially affect any such-powers :
 - (b) So long as the registered proprietor holds the land on trust for sale, no estate or charge shall be registered in respect of an interest which, under Part I. of the Law of Property Act, 1922, or otherwise, ought to remain liable to be overridden on the execution of the trust for sale :
 - (c) Nothing in this subsection shall impose on a registered proprietor an obligation to make a disposition unless the person requiring the disposition to be made has a right in equity to call for the same :
 - (d) Nothing in this subsection shall prejudicially affect the rights of a personal representative in relation to the administration of the estate of the deceased.
- (10) All leases at a rent for a term of years absolute authorised by the powers conferred by the Conveyancing Acts, 1881 to 1922, or the Settled Land Acts, or any other statute (whether or not as extended by any instrument) may be granted in the name and on behalf of the registered proprietor by the person (other than the registered proprietor) empowered to grant the same, and shall be valid at law or in equity (as the case may require), and may be protected by notice on the register, and, if the term originally created exceeds twenty-one years, or is not granted at a rent without taking a fine, shall be registered in like manner and with the same effect as if the lease had been granted by the registered proprietor of the land, and without prejudice to any priority acquired by the exercise of the power; but nothing in this sub-subsection shall authorise any person granting any lease in the name of the registered proprietor

to impose (save in regard to the usual qualified covenant for quiet enjoyment) any personal liability on such proprietor.

- (11) Provided that where, under the Acts, the registered proprietor is authorised (otherwise than by virtue of this section) to dispose of or create any estate, interest, or right, or otherwise deal with the registered land in the manner required for giving effect to the transaction, then the disposition or dealing by the registered proprietor shall (subject to the express provisions relating to mortgages) not take effect under this section, but shall, for the purposes of the Acts, take effect as a registered disposition, and, when so required, shall be registered or protected as provided by the Acts or rules.
- (12) Rules may be made for applying the provisions of this section to the case of minor interests in a debt secured by a registered charge.

Notice of leases, rentcharges, &c.

- 13 (1) The last paragraph of section fifty (relating to notices of leases) commencing with the words "is for a life or lives" is hereby repealed and the following paragraph shall be substituted therefor, namely:—

“is not an overriding interest, may apply to the registrar to register notice of such lease or agreement in the prescribed manner, and when so registered, every registered proprietor and the persons deriving title under him (except proprietors of charges or incumbrances registered or protected on the register prior to the registration of such notice, unless such proprietors are, by reason of the lease having been granted under any statutory or other power or by reason of their concurrence or otherwise, bound by the terms of the lease or agreement) shall be deemed to be affected with notice of such lease or agreement, as being an incumbrance on the land in respect of which the notice is entered.”

- (2) The provisions of sections fifty and fifty-one shall be extended by the rules so. as to apply to the registration of notices of or of claims in respect of—
- (a) The grant or reservation of any rentcharge in possession, either perpetual or for a term of years absolute :
 - (b) The severance of any mines or minerals from the surface, except where the mines and minerals severed are expressly included in the registration :
 - (c) Land charges (not including local land charges, unless application is made to register notice thereof) until the land charge is registered as a registered charge :
 - (d) The rights of any person in the proceeds of sale of land held on trust for sale or in land subject to a settlement to require that (unless a trust corporation is acting as trustee) there shall be at least two trustees of the disposition on trust for sale or of the settlement:
 - (e) The rights (acquired before the commencement of the Law of Property Act, 1922) of any widow in respect of dower or under the Intestates' Estates Act, 1890 and any right to free bench saved by the said Act of 1922 (which rights shall take effect in equity as minor interests) :
 - (f) Creditors' notices and any other right, interest, or claim which it may be deemed expedient to protect by notice instead of by caution, inhibition, or restriction.

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- (3) Provided that a notice shall not (except pending the appointment of trustees of a disposition on trust for sale or a settlement) be registered in respect of any estate, right, or interest which (independently of the Acts) is capable of being overridden by the registered proprietor under the trust for sale or the powers of the Settled Land Acts or any other statute, or of a settlement, and of being protected by a restriction in the prescribed manner; and a notice lodged pending the appointment of trustees of a disposition on trust for sale or a settlement shall be cancelled if and when the appointment is made and the proper restriction (if any) is entered.
- (4) Provided also that a notice shall not be registered in respect of a right interest or claim so as to affect prejudicially:
 - (a) The powers of disposition of the personal representative of the deceased under whose will or by the operation of whose intestacy the right, interest, or claim arose; or
 - (b) The powers of disposition (independently of the Acts) of a registered proprietor holding the land on trust for sale.
- (5) A disposition by the registered proprietor shall take effect subject to all estates, rights, and claims which are protected by way of notice on the register at the date of the registration or entry of notice of the disposition, but only if and so far as such estates, rights, and claims may be valid and are not (independently of the Acts) capable of being overridden.
- (6) Where notice of a claim is entered on the register, such entry shall operate by way of notice only, and shall not operate to render valid such claim whether made adversely to or for the benefit of the registered land or charge.
- (7) Section fifty-two (relating to dower and curtesy) is hereby repealed.

Cautions against registered dealings.

- 14 (1) The following provision shall be substituted for the provision at the end of section fifty-three (relating to cautions), namely:—

“Provided that a person whose estate, right, interest, or claim has been registered or protected by a notice or restriction shall not be entitled (except with the consent of the registrar) to lodge a caution in respect of such estate, right, interest, or claim, but this provision shall not operate to prevent an incumbrancer or assignee of a life interest, remainder, reversion or executory interest, from lodging a priority caution in a specially prescribed form.”
- (2) A caution lodged under section fifty-three shall be supported by such evidence as may be prescribed, and the personal representative of a deceased cautioner may consent or object to a dealing in the same manner as the cautioner; and the second paragraph of section fifty-three is hereby repealed.
- (3) Where a caution is lodged under section fifty-three notice thereunder shall be given of any intended entry on the register for protecting any deposit or other dealing by the registered proprietor, as well as of any intended registered disposition.

Power to place restrictions on the register.

- 15 (1) Restrictions on disposing of or dealing with the registered land or charge in any manner in which by the Acts the registered proprietor is authorised to dispose of or

deal with the same, or in reference to the deposit of any certificate by way of security, may, under section fifty-eight, be placed on the register in the prescribed manner.

- (2) Restrictions placed on the register under section fifty-eight shall not extend or apply to dispositions of or dealings with minor interests.
- (3) The court may, in lieu of an inhibition, order a notice or restriction to be placed on the register.

Caution against first registration of land.

- 16 Where a caution is lodged under section sixty the personal representative of the deceased cautioner may consent or object to registration in the same manner as the cautioner.

Notice of manorial incidents.

- 17 Where land is affected by manorial incidents, the registrar may enter a note of that fact on the register, and may cancel such note when the extinguishment of the manorial incidents has been proved.

As to settled land and land held on trust for sale and used as to part owners.

- 18 (1) Where the land is settled and, but for the Law of Property Act, 1922, a power of sale would be vested in trustees, the provisions of the Acts relating to the registration of settled land shall apply in substitution for the provisions of section sixty-eight (which section is hereby repealed), and where land is subject to a trust for sale express or implied (whether or not there is power to postpone the sale) the trustees for sale shall be registered as proprietors of the land.
- (2) Section sixty-nine (relating to part owners) is hereby repealed.

Facts and documents to be disclosed.

- 19 The words " the vendor and his solicitor in cases where " the applicant is a person who has contracted to buy such " land, and in all other cases " in section seventy are hereby repealed.

Enactments as to notice, writs, orders, deeds of arrangement, and land charges.

- 20 (1) At the end of subsection (1) of section eighty-three (as enacted by the Act of 1897) relating to trusts, the following words shall be added, namely :—

“And (subject to the provisions of the Acts relating to fraud) a purchaser acquiring title under a registered disposition shall not be concerned with any *lis pendens* annuity, writ, order, deed of arrangement, matter, or claim (not being an overriding interest) which is not protected by an entry on the register, whether he has or has not notice thereof, express, implied, or constructive.”

- (2) Subsections (3), (4), (7), and (8) of section eighty-three (relating to registration) are hereby repealed and the following provisions shall have effect in lieu thereof:—
 - (i) Registration of a writ, order, or deed of arrangement under the Land Charges Registration and Searches Act, 1888 (as amended by any subsequent

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enactment), or a *lis pendens*, annuity, or other interest now required to be registered by the registrar or otherwise under the Land Charges Act, 19C0, shall, where the land or charge securing the debt affected is registered, be effected only by lodging a creditors' notice or a caution against dealings with the land or the charge, and registration of a land charge (but not including a local land charge unless application is made to register . notice thereof) under the said Act of 1888 (as amended by the Law of Property Act, 1922) shall, where the land affected is registered, be effected only by registering a notice under section fifty of the Act of 1875 (as amended), and no other registration shall be required unless the charge (to secure money) is to be realised, when the land charge may be registered as a registered charge.

- (ii) A person interested under a writ or order for enforcing a judgment against registered land, or a charge, may inspect and make copies of and extracts from the register and documents referred to therein which are in the custody of the registrar, so far as the same relate to the registered land, or charge, and may, in accordance with section fifty-three of the Act of 1875, lodge a caution against dealings therewith.
- (iii) A registered proprietor of a land charge shall, in reference thereto, but subject to any entry to the contrary oh the register, have the same powers as are by the Acts conferred on the proprietor of a registered charge, but this subsection shall operate without prejudice to the priority conferred by the land charge.
- (iv) The foregoing provisions shall apply only to writs and orders issued registered, or re-registered deeds of arrangement executed, *lites pendenteo* or annuities commenced, registered, or re-registered and land charges created, registered or re-registered after the commencement of this Act.

Restrictive covenants.

21 Section eighty-four as amended by the Act of 1897 is hereby repealed and the following provisions shall have effect in substitution therefor:—

- (1) Any person entitled to the benefit of a restrictive covenant or restriction with respect to the building on or other user of registered freehold land may apply to the registrar to enter notice thereof on the register, and where practicable the notice shall be by reference to the instrument, if any, which contains the covenant or agreement, and a copy or abstract of such instrument shall be filed at the registry; and where any such covenant or agreement appears to exist at the time of first registration, notice thereof shall be entered on the register. In the case of registered land the notice aforesaid shall take the place of the registration of a land charge.
- (2) When such notice is entered every registered proprietor of the land and the persons deriving title under him (except incumbrancers or other persons who at the time when the notice is entered may not be bound by the covenant or agreement) shall be deemed to be affected with notice of the covenant or agreement, as being an incumbrance on the land.
- (3) Where the covenant or agreement is discharged or modified by an order under Part III. of the Law of Property Act, 1922, or otherwise, or the court refuses to grant an injunction for enforcing the same, the entry shall either be cancelled or reference made to the order or other instrument and a copy of the order, judgment, or instrument shall be filed at the registry.
- (4) The notice shall, when practicable, refer to the land whether registered or not for the benefit of which the covenant or agreement was made.

- (5) The registered proprietor may (subject to any entry to the contrary on the register, and without prejudice to the rights of persons entitled to overriding interests (if any) and to any incumbrances entered on the register, who may not concur therein) in any registered disposition or other instrument by covenant, condition, or otherwise, impose or make binding, so far as the law permits, any obligation or reservation with respect to the building on or other user of the registered land or any part thereof, or with respect to mines and minerals (whether registered separately or as part of the registered land), or with respect to any other thing in like manner as if the registered proprietor were entitled to the registered estate for his own benefit.
- (6) The registered proprietor may (subject as aforesaid) release or waive any rights arising or which may arise by reason of any covenant or condition, or release any obligation or reservation the benefit of which is annexed or belongs to his registered estate to the same extent and in the same manner as if the rights in respect of the breach or the benefit of the covenant, obligation or reservation had been vested in him absolutely for his own benefit.
- (7) Entries shall be made on the register in the prescribed manner of all obligations and reservations imposed by the registered proprietor, of the release or waiver of any obligation or reservation and of all obligations and reservations acquired by him for the benefit of the registered land.

Amendment of section 82 and as to the Trustee Acts.

- 22 (1) In section eighty-two the expression " incorporeal hereditament " does not include an undivided share in land.
- (2) In section eighty-five " 1893 (as amended by any subsequent enactment)" shall be substituted for " 1850, " and in place of the words " but this enactment" to the end of the section shall be substituted the words " subject to the express " provisions of this Act as amended by any subsequent enactments and to the rules made thereunder."

As to married women, infants, and lunatics.

- 23 (1) Section eighty-seven (relating to married women) and section eighty-eight (relating to infants and lunatics) are hereby repealed.
- (2) A purported disposition of registered land or of a charge to an infant made after the commencement of this Act or by the will of a registered proprietor dying after such commencement, shall not entitle the infant to be registered as proprietor of the land or charge until he attains full age, but in the meantime shall operate only as a declaration binding on the registered proprietor or personal representative that the registered estate or charge is to be held on trust to give effect to minor interests in favour of the infant, corresponding, as nearly as may be, with the interests which the disposition purports to transfer or create; and the disposition or a copy of or extract therefrom shall be deposited at the registry:

Provided that—

- (a) If the disposition is made to the infant jointly with another person of full age, then that person shall, during the minority, be entitled to be registered as proprietor, and the infant shall not be registered until he attains full age:

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- (b) Where the registered land is subject to any trusts or rights of redemption in favour of any person other than the infant, then nothing in this section shall affect such trusts or rights of redemption :
 - (c) Where by reason of the minority or otherwise the land is settled land, then the provisions of the Acts relating to settled land shall apply thereto.
- (3) Where after the commencement of this Act an infant becomes entitled under a will or on an intestacy to registered land or a registered charge, the same shall not be transferred by the personal representative to the infant until he attains full age.
- (4) In case the benefit of a registered charge becomes vested in an infant the charge shall during the minority be registered in the names of the personal representatives, trustees, or other persons who if the charge had affected unregistered land would have been able to dispose of the same, and they shall for the purposes of the Acts have the same powers in reference thereto as the infant would have had if of full age.
- (5) A caution may be lodged in the name or on behalf of an infant by his parent, trustee or guardian.
- (6) Where a registered proprietor of the land or of a charge is a lunatic (whether so found or not) or a defective, the committee of his estate or his receiver shall, under an order in lunacy or otherwise, or under any statutory power, have and may exercise in the name and behalf of the lunatic or defective all the powers which under the Acts the lunatic or defective could have exercised if free from disability, and a copy of every such order shall be filed with the registrar and may be referred to on the register.

Rectification of the register by the court.

- 24 For the words " subject to any estates or rights acquired by registration in pursuance of this Act " respectively contained in sections ninety-five and ninety-six the words " subject to any express provisions of the Acts to the contrary " are hereby substituted in those sections.

Power to make general rules.

- 25 Provision may be made by general rules under section one hundred and eleven, as amended by the Act of 1897, for all or any of the following purposes:—
- (a) For making such adaptations as changes in the general law (including changes effected by the Law of Property Act, 1922) may render expedient, with a view to the practice under the Acts being from time to time adapted, so far as expedient, to the practice in force in regard to unregistered land :
 - (b) For enabling the registrar, without further investigation, to accept a title as absolute or good leasehold, in proper cases, on the faith of certificates given by counsel or solicitors or both:
 - (c) For clearing the registered title on suitable occasions, and for enabling the registrar to permit any person interested to inspect entries on the register which have been cancelled, whether or not the title has been closed :
 - (d) For giving notice on land certificates of the general effect of registration:
 - (e) For the registration, by way of notice, on the first registration of the land of any easement, right, or privilege created by an instrument and operating at law which appears to affect adversely the land, and so far as practicable by reference to the instrument creating the same:

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- (f) For enabling any person who acquires any such easement, right, or privilege after the date of first registration of the land to require (subject to notice being given to the owner of the servient land) entry to be made in the register of notice of the same, and so far as practicable by reference to the instrument creating the right:
- (g) For enabling the first or any subsequent registered proprietor to require that notice of his title to any such right, or interest, whether acquired under an instrument or by prescription or otherwise, being appurtenant or appendant to the registered land, be entered on the register, and, so far as practicable, by reference to the instrument (if any) creating the right, or interest, and for prescribing the effect of any such entry:
- (h) For providing for the registration of a rentcharge in possession (either perpetual or for a term of years absolute) or mines and minerals when held separately from the surface and as to notices to be entered of any exception of mines and minerals; and for preventing the registration of the benefit of any easement, right, privilege or restrictive covenant otherwise than as belonging to registered land :
- (i) For regulating the procedure on application for first registration, provided that the applicant or his solicitor shall not be bound to make any declaration where a documentary title is shown, which would operate as a guarantee in regard to matters not disclosed by the abstract; for defining the effect of registration with a good leasehold title ; and for enabling registration with a possessory title to be effected provisionally pending the investigation of the title :
- (j) For regulating the issue and forms of certificates, and, if deemed desirable, for prescribing any special notification on the certificate to be given by way of warning when incumbrances, notices, and other adverse entries appear on the register :
- (k) For providing for the cases in which the registrar may grant a certificate that an intended disposition is authorised, and will be registered if presented :
- (l) For prescribing the form and effect of priority notices, and of priority cautions and inhibitions :
- (m) For enabling a registered proprietor of land or a charge to register not more than three addresses (including, if he thinks fit, the address of his solicitor or firm of solicitors) to which notices are to be sent:
- (n) For providing any special precautions to be taken against forgery when the land certificate or certificate of charge is not in the possession of the registered proprietor.

PART II

AMENDMENTS AND REPEALS OF THE ACT OF 1897.

Sections referred to.

- 1 References to sections in this Part of this Schedule shall be construed as references to sections of the Act of 1897 unless the contrary is stated.

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Settled land.

- 2 (1) The following provisions shall be substituted for subsection (1) of section six (relating to settled land), namely :—

“(i) Settled land shall be registered in the name of the tenant for life of full age or statutory owner, and where a tenant for life (being the registered proprietor) ceases in his lifetime to be a tenant for life, then he shall transfer the land to his successor in title of full age, or if such successor is an infant, then to the statutory owner:

(ii) The successive or other interests created by or arising under a settlement shall (save as regards any legal estate which cannot be overridden under the powers of the Settled Land Acts or other statute) take effect as minor interests and not otherwise ; and effect shall be given thereto by the registered proprietor of the settled land as provided by Part I. of the Law of Property Act, 1922, with respect to the estate owner, with such adaptations (if any) as may be prescribed in the case of registered land by rules made under the Acts:

(iii) References in the Acts to the 'tenant for life' shall, where the context admits, be read as referring to the tenant for life of full age or statutory owner who is entitled to be registered.”

- (2) The restrictions or inhibitions prescribed under subsection (2) of section six shall (subject to the provisions of this section relating to releases by the trustees of a settlement and to transfers by a tenant for life whose estate has ceased in his lifetime) be binding on the registered proprietor during his life, and shall not restrain or otherwise affect a disposition by his personal representative.

- (3) The following provisions shall be substituted for subsection (3) of section six aforesaid, namely :—

“Where land already registered is acquired with capital money the same shall be transferred by a transfer in a special prescribed form to the tenant for life of full age, or statutory owner, and such transfer shall name the proper persons to be trustees thereof for the purposes of the Settled Land Acts, and contain an application to register the prescribed restrictions applicable to the case ; a transfer made in the special prescribed form shall be deemed to comply with the requirements of Part I. of the Law of Property Act, 1922, respecting vesting deeds ; and where no capital money is paid but land already registered is to be made subject to a settlement, it shall not be necessary for the trustees of the settlement to concur in the transfer.”

- (4) The following provisions shall be substituted for subsection (4) of section six aforesaid, namely:—

“(i) On the death of a registered proprietor, or of the survivor of two or more joint registered proprietors where the registered land is settled, whether by his will or by an instrument taking effect previously to his death, his personal representative shall hold the settled land subject to payment or to making provision for payment of. all death duties and other liabilities affecting the land, and having priority to the settlement, upon trust to transfer the same (by an assent) in the prescribed manner to the tenant for life of full age

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or statutory owner, and in the meantime upon trust to give effect to the minor interests under the settlement; but a transfer shall not be made to an infant.

- (ii) Rules may be made for enabling a personal representative or registered proprietor in proper cases to create legal estates by registered dispositions for giving effect to or creating overriding interests; to provide for the cases in which application shall be made by the personal representative or registered proprietor for the registration of restrictions or inhibitions or notices, and for discharging a personal representative or former registered proprietor who has complied with the requirements of the Acts and rules from all liability in respect of minor interests under a settlement.
- (iii) Where a tenant for life of full age or statutory owner who, if the land were not registered, would be entitled to have the settled land conveyed to him, is not the registered proprietor, then the -registered proprietor shall (notwithstanding any stipulation or provision to the contrary) be bound to execute such transfers as may be required for giving effect on the register to the rights of such tenant for life of full age or statutory owner.
- (iv) Where the former trustees of a settlement have in the prescribed manner released the land to the registered proprietor from the minor interests, then the registrar shall be entitled to assume that the settlement has determined, and the restrictions or inhibitions for protecting the minor interests thereunder shall be cancelled.
- (v) Where an order is made under Part II. of the Law of Property Act, 1922, authorising the trustees of the settlement to exercise the powers on behalf of a tenant for life of full age who is registered as proprietor, they may in his name and on his behalf do all such acts and things under the Acts as may be requisite for giving effect on the register to the powers authorised to be exercised in like manner as if they were registered as proprietors of the land, but a copy of the order shall be filed at the registry before such powers are exercised.
- (vi) Where a registered proprietor ceases in his lifetime to be a tenant for life, then on the registration of his successor in title of full age or other statutory owner it shall be the duty of the trustees of the settlement, if the same be still subsisting to apply for such alteration (if any) in the restrictions or inhibitions as may be required for the protection of the minor interests under the settlement.”

(5) Subsections (4), (5), (8), and (10) of section six are hereby repealed ; and in subsection (6) the expression "settlement ' shall as respects the appointment of trustees include the vesting instrument as well as the trust deed and any other instruments creating the settlement, but, in the case of registered land, a transfer or assent in the prescribed form may take the place of a vesting instrument.

(6) The following words are hereby added at the end of subsection (6) of section six, namely :—

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“The registrar may notwithstanding any restriction entered on the register grant a certificate that an intended registered disposition is authorised by a settlement, or otherwise, and will be registered, and a purchaser who obtains such certificate shall not be concerned to see that the disposition is authorised, but where capital money is paid to the persons to whom the same is required to be paid by a restriction or into court no such certificate shall be required.”

- (7) The following words are hereby added at the end of subsection (7) of section six aforesaid, namely :—

“But so long as the estate interest or charge is capable of being overridden under the Settled Land Acts, or Part I. of the Law of Property Act, 1922, no charge shall be created or registered under this subsection”

- (8) This section applies in every case where pursuant to the Law of Property Act, 1922, settled land is to be vested in a tenant for life of full age or statutory owner, whether the land was registered before or after the commencement of this Act, and the registered proprietor of settled land (not being the tenant for life of full age or statutory owner entitled to the same) shall be bound to make such transfers as may be required for giving effect to the rights of the tenant for life of full age or statutory owner:

Provided that, where the registered land is not, at the commencement of this Act, registered in the name of a personal representative, or a tenant for life of full age or statutory owner, who if the land were not registered, would by virtue of Part I. of the Law of Property Act, 1922, be entitled to have the settled land vested in him, then any such person shall (without any transfer) be entitled to be registered as proprietor thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration in the register.

Provisions as to infants.

- 3 The following provisions shall have effect where an infant is or is deemed to be a tenant for life or would if he were of full age have the powers of a tenant for life:—
- (i) The personal representatives under the will or an intestacy under which the settlement is created or arises shall, during the minority and in reference to the settled land, have all the powers conferred by the Settled Land Acts on a tenant for life and on the trustees of the settlement, and shall be registered as proprietors thereof during the minority ; but if and when the personal representatives would, if the infant had been of full age, have been bound to transfer the land to him, then the personal representatives shall thenceforth during the minority give effect on the register to the directions of the statutory owner, and shall apply for the registration of any restriction which may be prescribed, but shall not be concerned with the propriety of any registered disposition so directed to be made if the same appears to be a proper disposition under the powers of the statutory owner and the capital money (if any) arising under the disposition is paid to the trustees of the settlement or into court; but a purchaser dealing with the personal representatives, who complies with the restriction (if any) which may be entered on the register, shall not be concerned to see or enquire whether any such directions have been given.

- (ii) If an infant becomes entitled in possession (or will become entitled in possession on attaining full age) to registered land otherwise than on a death, then the trustees of the settlement by whom the powers of a tenant for life are exercisable during the minority shall be entitled to require the settled land, to which such powers extend, to be transferred to them and shall be registered as proprietors accordingly.
- (iii) If and when the registered land would (if not registered) be vested in the trustees of the settlement pursuant to Part I. of the Law of Property Act, 1922, then such trustees shall (unless they are already registered) be entitled to be registered as proprietors thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration in the register.

As to land held on trust for sale.

- 4 (1) Where registered land is subject to a trust for sale, express or implied, whether or not there is power to postpone the sale, the land shall be registered in the names of the trustees for sale.
- (2) Where an order, in force at the commencement of this Act, has been obtained under section seven of the Settled Land Act, 1884, then the person authorised by the order to exercise any of the powers conferred by the Settled Land Acts, may, in the names and on behalf of the registered proprietors, do all such acts and things under the Acts, as may be requisite for giving effect on the register to the powers authorised to be exercised and in like manner as if such person were registered as proprietor of the land, and a copy of the order shall be filed at the registry.
- (3) Where by virtue of Part I. of the Law of Property Act, 1922, registered land is made subject to a trust for sale, the trustees for sale (unless already registered) shall be registered as proprietors thereof, and shall in the prescribed manner apply for registration accordingly, and no fee shall be charged in respect of such registration or consequential alteration of the register, but this subsection shall have effect subject to the provisions of the Acts relating to the registration of the Public Trustee or the removal of an undivided share from the register before the entirety of the land is registered.

As to vesting orders declarations and deeds and dispositions in name of proprietor.

- 5 (1) The registrar shall give effect on the register to any vesting order or vesting declaration made on the appointment or discharge of a trustee or otherwise, and to dispositions made in the name and on behalf of a registered proprietor by a person authorised to make the disposition ; and the provisions of section twelve of the Trustee Act, 1893 (as amended by any subsequent enactment) shall apply to registered land subject to the proper entry being made on the register.
- (2) The Registrar shall also give effect on the register in the prescribed manner to any vesting instrument which may be made pursuant to the Law of Property Act, 1922.

As to the application of compensation money.

- 6 Where any indemnity is paid under the Acts in respect of settled land, and not in respect of any particular estate, remainder, or reversion therein, the money shall be

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paid to the trustees of the settlement and be held by them as capital money for the purposes of the Settled Land Acts arising from the settled land.

Land certificates and certificates of charge.

- 7 (1) In addition to the cases mentioned in subsection (1) of section eight, land certificates or certificates of charge shall be produced to the registrar to be noted as provided by that subsection, in every case (except as herein-after mentioned) where under section fifty of the Act of 1875 (as amended) or otherwise notice of any estate, right, or claim, or a restriction, is entered or placed on the register, adversely affecting the title of the proprietor of the land or charge, but not in the case of the lodgment of a caution under section fifty-three of the Act of 1875 or of an inhibition or of a creditor's notice or of the entry of notice of a lease at a rent without taking a fine.
- (2) For subsection (3) of section eight the following subsection shall be substituted :—
- “A new land certificate or certificate of charge may be issued in place of one lost or destroyed, or in the possession of a person out of the jurisdiction of the Court, on such terms as to advertisement notice or delay as may be prescribed.”
- (3) The provisions of subsection (4) of section eight (relating to the issue of a new land certificate on sale under the statutory power by a registered proprietor of a charge) shall be extended in the prescribed manner to the cases of an order for foreclosure absolute, of a proprietor of a charge or a mortgagee obtaining a title to the land under the Limitation Acts, and of title being acquired under a title paramount to the registered estate, including titles acquired pursuant to any vesting or other order of the Court.
- (4) The words " Subject to any stipulation to the contrary " the proprietor of a registered charge shall not be entitled to " have the custody of the land certificate or to require a land " certificate to be applied for" in subsection (4) of section eight are hereby repealed, and the following words shall be substituted therefor:—
- “Where a charge or mortgage (otherwise than by deposit) is registered, or protected by a caution in a specially prescribed form, the land certificate shall be deposited at the registry until the charge, or mortgage, or caution is cancelled.”
- (5) In the last paragraph of subsection (4) of section eight (relating to mortgages by deposit), the words " subject to the " overriding interests (if any), to any entry to the contrary on " the register and to any estates, interests, charges, or rights " registered or protected on the register at the date of the " deposit" are hereby substituted for the words " subject to any " registered estates, charges, or rights."

Transfers and charges.

- 8 (1) In subsection (1) of section nine after the words "with power of sale shall" the words "without prejudice to the powers conferred by the Acts on the proprietor of such charge " are hereby inserted.
- (2) The following words shall be inserted in subsection (2) of section nine, after the words " the same Act, " namely, "as amended and extended by the Conveyancing Act, 1911."

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- (3) The following words shall be added at the end of subsection (3) of section Dine, namely:—

“This subsection shall not authorise a charge of an annuity or other periodical payment for life or lives or for a term of years determinable with life or lives or other determinable life interest, but such a charge shall nevertheless be capable of being created in equity as a minor interest.”

- (4) The following words shall be added at the end of subsection (6) of section nine, namely:—

“Rules may be made for extending the provisions of this subsection to the case of any person entitled to be registered as first proprietor, and to any other case which it may be deemed expedient to prescribe for.”

Applications, &c. by unqualified persons.

- 9 The words " or makes any application or lodges any document at the registry " are hereby inserted in section ten of the Act of 1897, after the words " other prescribed instrument " and that section shall have effect accordingly.

Restriction on number of trustees and description of registered land.

- 10 (1) The provisions of the Law of Property Act, 1922, affecting the number of the persons entitled to hold land on trust for sale, and the number of trustees of a settlement shall apply to registered land.
- (2) Subsection (1) of section fourteen shall not authorise the registration of undivided shares after the commencement of this Act.
- (3) Subsection (2) of section fourteen is hereby repealed, and the following provision shall be substituted therefor:—

“(2) Registered land may be described by means of a verbal description and a filed plan, or general map, based on the ordnance map, or by reference to a deed or other document, a copy or extract whereof is filed at the registry containing a sufficient description thereof, and a plan or map or otherwise as the applicant for registration may desire, and the registrar, or the court, if the applicant prefers, may approve, regard being had to ready identification of parcels, correct descriptions of boundaries, and, so far as may be, uniformity of practice ; but whenever practicable the boundaries of all freehold land and all requisite details in relation to the same shall be entered on the register or filed plan, or general map, and the filed plan (if any), or general map, shall be used for assisting the identification of the land.”

Exceptions in regard to compulsory registration.

- 11 (1) In subsection (1) of section twenty-four the words " or two lives yet to fall in, or to an undivided share in land " are hereby repealed.
- (2) Subsection (2) of section twenty-four is hereby repealed.