



Law of Property (Amendment) Act 1924

1924 CHAPTER 5

An Act to amend the Law of Property Act, 1922, and the enactments thereby affected, and to facilitate the consolidation of the law relating to conveyancing and property, settled land, trustees, the registration of pending actions, annuities, writs, orders, deeds of arrangement and land charges, the administration of estates, the registration of title to land and university and college estates. [18th December 1924.]

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

1 Repeals effected by the principal Act

For the purpose of collecting the repeals effected by the Law of Property Act, 1922 (in this Act referred to as "the principal Act") parts of which are intended to be repealed, it is hereby declared that the enactments set out in the First Schedule to this Act are the enactments which were, to the extent specified in the third column of the said Schedule, repealed by the principal Act.

2 Amendments of the principal Act

The principal Act shall be amended, in regard to details relating to the enfranchisement of copyholds and the conversion of perpetually renewable leaseholds into long terms, in the manner appearing in the Second Schedule to this Act.

3 Provisions facilitating the consolidation of the law relating to conveyancing and property

The amendments and provisions, for facilitating the consolidation of the statute law relating to conveyancing and property, contained in the Third Schedule to this Act, shall have effect.

4 Provisions facilitating the consolidation of the law relating to settled land

The amendments and provisions, for facilitating the consolidation of the statute law relating to settled land, contained in the Fourth Schedule to this Act, shall have effect.

5 Provisions facilitating the consolidation of the law relating to trustees

The amendments and provisions, for facilitating the consolidation of the statute law relating to trustees, contained in the Fifth Schedule to this Act, shall have effect.

6 Provisions facilitating the consolidation of the law relating to the-registration of pending actions, & c

The amendments and provisions, for facilitating the consolidation of the statute law relating to the registration of pending actions, annuities, writs, orders, deeds of arrangement and land charges, contained in the Sixth Schedule to this Act, shall have effect.

7 Provisions facilitating the consolidation of the law relating to administration of estates

The amendments and provisions, for facilitating the consolidation of the statute law relating to the administration of estates of deceased persons, contained in the Seventh Schedule to this Act, shall have effect.

8 Provisions facilitating the consolidation of the law relating to registration of title to land

The amendments and provisions, for facilitating the consolidation of the statute law relating to the registration of title to land, contained in the Eighth Schedule to this Act, shall have effect.

9 Statutes affected by the principal Act

The enactments mentioned in the Ninth Schedule to this Act are affected by the principal Act in the manner and to the extent specified in that Schedule.

10 Repeal of statutes rendered obsolete

The enactments set out in the Tenth Schedule to this Act, being enactments which, as respects England and Wales, are rendered obsolete by the principal Act, are hereby repealed to the extent specified in the third column of that Schedule.

11 Provisions for facilitating the consolidation of the law relating to university and college estates

The amendments and provisions for facilitating the consolidation of the statute law relating to university and college estates, contained in the Eleventh Schedule to this Act, shall have effect.

12 Short title, commencement, extent

- (1) This Act may be cited as the Law of Property (Amendment) Act, 1924
- (2) This Act shall be construed as one with the principal Act, and that Act and this Act may be cited together as the Property Acts, 1922 and 1924.
- (3) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.
- (4) This Act extends to England and Wales only.

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SCHEDULES.

FIRST SCHEDULE

REPEALS EFFECTED BY THE LAW OF PROPERTY ACT, 1922

Session and Chapter.	Title or Short Title.	Extent of Repeals.
27 Hen. 8. c. 10.	The Statute of Uses	The whole Act.
22 & 23 Car.2. c. 10.	The Statute of Distribution.	Sections three and four.
29 Car. 2. c. 3.	The Statute of Frauds	Section twenty-four.
1 Jac. 2. c.17.	An Act for reviving and continuance of severall Acts of Parlyament therein mentioned.	Sections five and seven.
11 Geo.4.and 1 Will. 4. c. 40.	The Executors Act, 1830.	The whole Act.
3 & 4 Will. 4. c. 74.	The Fines and Recoveries Act, 1833.	Section thirty-two, as respects settlements made or coming into operation after the commencement of the principal Act.
17 & 18 Vict. c. 97.	The Inclosure Act, 1854.	The proviso to section eleven, and, in section thirteen, the words " so far as the same has " been apportioned upon the " lands of persons interested " and making applications as " aforesaid."
31 & 32 Vict. c. 40.	The Partition Act, 1868.	The whole Act without prejudice to proceedings commenced thereunder before the commencement of the principal Act.
34 & 35 Vict. c. 31.	The Trade Union Act, 1871.	In section seven, the words " not " exceeding one acre."
37 & 38 Vict. c. 78.	The Vendor and Purchaser Act, 1874.	Section one.
38 & 39 Vict. c. 87.	The Land Transfer Act, 1875.	Section two; in section four from " The Court of Chancery " to the end of the section; in sub-section (1) of section eleven the

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Session and Chapter.	Title or Short Title.	Extent of Repeals.
39 & 40 Vict. c. 17.	The Partition Act, 1876.	<p>words " for a life or lives " or determinable on a life " or lives"; sections twelve, fourteen, fifteen, and sixteen; in paragraph (2) of section eighteen, the words " succession duty," paragraphs (4) and (5), in paragraph (7) the words " in cases where there is an oocupation under such tenancies," and the words from " The Commissioners of Inland " Revenue " to the end of the section; in section thirty-four from the words "upon completion of the registration" to the end of the section; sections thirty-six, thirty-seven, forty-one, forty-four, forty-five, and forty-nine; in section fifty, from the words " is for a life " to the end of the section; section fifty-two; the proviso to section fifty-three; sections sixty-eight and sixty-nine; in section seventy the words "the vendor or his " solicitor in cases where the " applicant is a person who " has contracted to buy such " land, and in all other oases "; paragraphs (3), (4), (7), and (8) of section eighty-three; section eighty-four; in section eighty-five, the words from " but this enactment" to the end of the section; sections eighty-seven and eighty-eight; in sections ninety-five and ninety-six the words " subject " to any estates or rights " acquired by registration in " pursuance of this Act"; and subsection (4) of section one hundred and eleven.</p> <p>The whole Act, without prejudice to proceedings commenced thereunder</p>

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Session and Chapter.	Title or Short Title.	Extent of Repeals.
40 & 41 Vict. c. 18.	The Settled Estates Act, 1877.	before the commencement of the principal Act. The whole Act.
44 & 45 Vict. c. 41.	The Conveyancing Act, 1881.	Section twelve; in paragraph (f) of subsection (6) of section fourteen, the words " To a " covenant or 'condition " against assigning, under-letting, parting with the " possession, or disposing of " the land leased; or " except in the application of that paragraph to breaches occurring before the commencement of the principal Act, and to cases where the land leased has been assigned, underlet, parted with or disposed of, to a limited company either before or after the commencement; in subsection (3) of section twenty-three the words " affected " under the mortgage deed " or under this Act; " section thirty as respects deaths occurring after the commencement of the principal Act; section forty-one; sub-sections (4) and (5) of section forty-two and section forty-three, as respects instruments coming into operation after the commencement of the principal Act; subsections (4) and (5) of section forty-five; and section sixty-two.
45 & 46 Vict. c. 38.	The Settled Land Act, 1882.	Subsection (4) of section two, and in paragraph (i) of subsection (10) of that section, the words " also an undivided share "; in subsection (6) of section two the words " as " tenants in common or " and the words " or for

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Session and Chapter.	Title or Short Title.	Extent of Repeals.
47 & 48 Vict. c. 18. 51 & 52 Vict. c. 51.	The Settled Land Act, 1884. The Land Charges Registration and Searches Act, 1888.	other con-" current estate or interests "; subsection (6) of section four; sections fourteen and nineteen; subsection (3) of section twenty; subsections (1) (2) and -(3) of section twenty-four, and in subsection (4), the words " as " aforesaid," " in respect of " money actually raised and " remaining unpaid," " or any " undivided share therein," and " or partition "; in subsection (5), the words " or " partition" in both places where those words occur, and the words "or an undivided " share wherein "; section twenty-six; subsection (1) of section thirty-seven; in subsection (1) of section thirty-nine, the words " settlement " authorises the receipt of " capital trust money of the " settlement by one trustee "; in subsection (2) of section forty-five, the words " a contrary intention is expressed " in the settlement "; paragraph (ii) of subsection (1) of section fifty-eight; section sixty from " and if there are " none " to the end of the section, and section sixty-three.
	The Settled Land Act, 1884.	Sections six and seven.
	The Land Charges Registration and Searches Act, 1888.	In section four the words " does " not include an order made " by a court having jurisdiction in bankruptcy in the " exercise of that jurisdiction, " but save as aforesaid."
52 & 53 Vict. c. 36.	The Settled Land Act, 1889.	The whole Act.
53 & 54 Vict. c. 29.	The Intestates' Estates Act, 1890.	The whole Act.
53 & 54 Vict. c. 69.	The Settled Land Act, 1890.	In section nine the words " for " building purposes " and

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Session and Chapter.	Title or Short Title.	Extent of Repeals.
56 & 57 Vict c. 53.	The Trustee Act, 1893.	from " and the rentcharge " to the end of the section; and sections twelve and nineteen. In paragraph (c) of subsection (2) of section ten, the words " at least two trustees to per-" form the trust"; in subsection (1) of section eleven, the words " where there are " more than two trustees if " one of them "; and in proviso (e) to subsection (1) of section thirty-five, the words " by the court."
57 & 58 Vict. c. 46.	The Copyhold Act, 1894.	The definition of " tenant" in section ninety-four.
60 & 61 Vict. c. 65.	The Land Transfer Act, 1897.	Part I., as respects deaths occurring after the commencement of the principal Act; subsections (1), (3), (4), (5), (8) and (10) of section six; subsections (1) to (4) of section seven, and the words " act, " neglect or default " in subsection (6) of that section; subsection (3) of section eight; in subsection (4) of the same section 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 "; sections twelve and thirteen; subsection (2) of section fourteen; subsections (1) and (3) of section sixteen; in subsection (1) of section twenty, from " a " person shall not " to end of that subsection; subsection (8) of section twenty; in subsection (3) of section twenty-three, the words " but no sum" to " such transfer "; in subsection (1) of

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Session and Chapter.	Title or Short Title.	Extent of Repeals.
1 & 2 Geo. 5. c. 37.	The Conveyancing Act, 1911.	section twenty-four the words " or two lives " yet to fall in or to an " undivided share in land "; and subsection (2) of that section. Section twelve as respects deaths occurring after the commencement of the principal Act.

SECOND SCHEDULE

Section 2.

AMENDMENTS OF PRINCIPAL ACT

Saving of offices of profit from the Crown.

- 1 The following section shall be inserted after section one hundred and forty-two of the principal Act:—

Notwithstanding that, as respects manors belonging to the Crown, all manorial incidents may become extinguished, the acceptance of the office of steward or other principal officer shall be deemed to be an acceptance of an office of profit from the Crown for the purposes of section twenty-five of the Succession to the Crown Act, 1707.”

Manorial documents.

- 2 The following section shall be inserted after section one hundred and forty-four of the principal Act:—

- (1) All manorial documents shall be under the charge and superintendence of the Master of the Rolls.
- (2) Save as hereinafter provided, manorial documents shall remain in the possession or under the control of the lord for the time being of the manor to which the same relate and he shall not be entitled to destroy or damage wilfully such documents.
- (3) The Master of the Rolls may from time to time make such enquiries as he shall think fit for the purpose of ascertaining that any manorial documents are in the proper custody, and are being properly preserved, and the lord of the manor to which such documents relate, or the governing body of any public library, or museum or historical or antiquarian society, to which the same may have been transferred, as hereinafter provided, shall furnish the Master of the Rolls with all such information with respect thereto as he may require.
- (4) The Master of the Rolls may direct that any manorial documents which, in his opinion, are not being properly preserved, or which he is requested by the lord of a manor to deal with under this subsection, shall be transferred to the Public Record Office, or to any public library, or museum or historical

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or antiquarian society, which may be willing to receive the same, and if the same shall be transferred to any public library, or museum or historical or antiquarian society, the governing body thereof shall thereafter have the custody thereof and shall be responsible for the proper preservation and indexing thereof.

- (5) Nothing contained in this section shall prejudice or affect the right of any person to the production and delivery of copies of any manorial documents or to have the same kept in a proper state of preservation; in particular the lord of the manor shall remain entitled to require the same to be produced to him, or in accordance with his directions, free of any cost.
- (6) In this section " manorial documents" mean court rolls, surveys, maps, terriers, documents and books of every description relating to the boundaries, franchises, wastes, customs or courts of a manor, but do not include the deeds and other instruments required for evidencing the title to a manor; "manor" includes a lordship and a reputed lordship; and " lord of the manor " includes any person entitled to manorial documents.
- (7) The Master of the Rolls may make rules for giving effect to this section, and may revoke or vary any such rules.”

Extinguishment of manorial incidents.

- 3 (1) At the end of paragraph (viii) of subsection (1) of section one hundred and thirty-nine of the principal Act the words " On the application of the lord or of at least twenty " tenants a general order may be made under this paragraph as " respects any manor " shall be inserted.
- (2) In section one hundred and forty-two of the principal Act the words "in fee " where they first occur, are hereby repealed.

Amendments of Schedules XII and XIII.

- 4 The Twelfth Schedule to the principal Act is hereby amended as follows :—
- (1) In sub-paragraph (6) of paragraph (8) the words " or a mortgagee has been admitted," and " or would have had such right if a mortgagee had not been admitted" are hereby repealed, and, in lieu of the last-mentioned words, the words " otherwise than as mortgagee " shall be inserted ;
- In the same sub-paragraph the words " (being a trustee) " shall be substituted for " (not being a mortgagee) " ; and the words " if any " shall be inserted after " personal representative. "
- In the same sub-paragraph the words " a better right to be admitted than the devisee or customary heir " shall be substituted for " the best right to be admitted, " where those words secondly occur.
- (2) The following sub-paragraphs shall be inserted at the end of the said paragraph :—
- “(f) If the copyholder in fee is a mortgagee the freehold estate in fee simple shall (subject to the terms of years absolute of any mortgagees) vest in the person entitled to the equity of redemption:
- (g) If a copyholder in fee, or other person entitled to an interest corresponding to a legal estate, is a trustee for a corporation or other

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person absolutely and beneficially entitled, the freehold estate in fee simple, or other corresponding legal estate (as the case may be) shall vest in the corporation or other person so entitled:

- (h) If a person has, under the Limitation Acts, acquired a customary estate corresponding to a legal estate, then a legal estate corresponding to the customary estate so acquired shall vest in him.”

- (3) In paragraph 13 of Part II. of the Thirteenth Schedule to the principal Act:—
- (a) The words "forfeitures and all other" shall be substituted for " all " ;
- (b) The words " or where the copyhold interest liable to " forfeiture is less than a customary fee simple or is " subject to a lease binding on the lord twenty per cent. " of the annual value of such copyhold interest to be " ascertained in such manner as the Minister may " determine to be proper" shall be inserted after the words " paragraphs 3 and 4. "

Amendments of Schedule XV.

5 The Fifteenth Schedule to the principal Act is hereby amended as follows :—

- (1) The words " cease or " shall be inserted after " notice shall " in the proviso to sub-paragraph (1)(i) of paragraph 10;
- (2) In sub-paragraph (1) of paragraph 12 the words " an amount to be ascertained as hereinafter provided" shall be substituted for " 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 " ;
- (3) For sub-paragraph (2) of paragraph 12 the following sub-paragraph shall be substituted :—
- “(2) In default of agreement and unless the Minister, having regard to the practice and other circumstances of the case, otherwise directs, the following provisions shall have effect for the purpose of ascertaining the annual instalments of additional rent:—
- (a) the additional rent shall be ascertained on the basis of the fines and other payments which would have been payable on the occasion of the first renewal after the commencement of this Act, if this Act had not been passed;
- (b) where the lessee or underlessee has a right to renew at different times, the occasion of the first renewal shall be such date as he may, by notice in writing given to the lessor within one year after the commencement of this Act, select from among the dates at which he would have been entitled to renew his lease or underlease had it remained renewable, or, in default of such notice, the last day on which he would have been entitled to renew, regard being had to the date of the last renewal”;
- (4) In sub-paragraph (3)-of paragraph 12 the words "or in default" shall be substituted for " and in default " ;
- (5) In sub-paragraph (5) of paragraph 12 for the words from " dividing the aggregate" to the end of the paragraph, the following words shall be substituted :—

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“an actuary, regard being had to the interval or average interval occurring between the dates of renewal and to any circumstances affecting the amount payable on renewal”;

- (6) In sub-paragraph (6) of paragraph 12 the words "such" percentage as the Minister may generally or in " any particular instance with a view to maintaining " any existing practice, prescribe " shall be substituted for the words " five per cent. " ;
- (7) At the end of sub-paragraph (1) (a) of paragraph 14 the words " or any part thereof " shall be inserted;
- (8) In sub-paragraph (1) of paragraph 16, the words " or the " appointment of or instructions to be given to an " actuary under paragraph 12 (5) of this Schedule" shall be inserted after " other agent " ;
- (9) At the end of sub-paragraph (3) of paragraph 16 the following words shall be inserted:
 —

“For the purposes of this sub-paragraph the compensation to be given for the loss of the said right shall be regulated by the practice (if any) which obtained, before the commencement of this Act, in assessing the value of the said right, unless the Minister otherwise directs.”

THIRD SCHEDULE

Section 3.

CONVEYANCING AND LAW OF PROPERTY

PART I

AMENDMENTS

Powers to postpone sale.

- 1 The following sub-paragraph shall be inserted at the end of paragraph 2 of the Fourth Schedule to the principal Act:—

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

Trust for sale where right of redemption barred.

- 2 At the end of section nine of the Conveyancing Act, 1911, the words " This section has effect without prejudice to any dealings or arrangements made before the commencement of this Act " shall be added.

Party structures.

- 3 The following paragraph shall be inserted at the end of the Third Schedule to the principal Act:—

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- “5 (1) Where under a disposition or other arrangement which, if a holding in undivided shares had been permissible, would have created a tenancy in common, a wall or other structure is or is expressed to be made a party wall or structure, that structure shall be and remain severed vertically as between the respective owners, and the owner of each part shall have such rights to support and user over the rest of the structure, as may be requisite for conferring rights corresponding to those which would have subsisted if a valid tenancy in common had been created.
- (2) Any person interested may, in case of dispute, apply to the court for an order declaring the rights and interests under this paragraph of the persons interested in any such party structure, and the court may make such order as it thinks fit.”

Provisions as to contracts.

- 4 The following section shall be substituted for section seven of the principal Act:—
- (1) A stipulation that a purchaser of a legal estate in land shall accept a title made with the concurrence of any person entitled to an equitable interest shall be void, if a title can be made discharged from the equitable interest without such consent—
- (a) under a trust for sale, or
 - (b) under this Act, or the Settled Land Acts, or any other statute.
- (2) A stipulation that a purchaser of a legal estate in land shall pay or contribute towards the costs of or incidental to—
- (a) obtaining a vesting order, or the appointment of trustees of a settlement, or the appointment of trustees of a conveyance on trust for sale, or
 - (b) the preparation, stamping or execution of a conveyance on trust for sale, or of a vesting instrument for bringing into force the provisions of the Settled Land Acts,
- shall be void.
- (3) A stipulation contained in any contract for the sale or exchange of land made after the commencement of this Act, to the effect that an outstanding legal estate is to be traced or got in by or at the expense of a purchaser or that no objection is to be taken on account of an outstanding legal estate, shall be void.
- (4) If the subject matter of any contract for the sale or exchange of land—
- (i) is a mortgage term and the vendor has power to convey the fee simple in the land, or, in the case of a mortgage of a term of years absolute, the leasehold reversion affected by the mortgage, the contract shall be deemed to extend to the fee simple in the land or such leasehold reversion;
 - (ii) is an equitable interest capable of subsisting as a legal estate, and the vendor has power to vest such legal estate in himself or in the purchaser or to require the same to be so vested, the Contract shall be deemed to extend to such legal estate;
 - (iii) is an entailed interest in possession and the vendor has power to vest in himself or in the purchaser the fee simple in the land, or to require

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the same to be so vested, or, if the entailed interest is an interest in a term of years absolute, such term, the contract shall be deemed to extend to the fee simple in the land or the term of years absolute.

- (5) This section does not affect the right of a mortgagee of leasehold land to sell his mortgage term only if he is unable to convey or vest the leasehold reversion expectant thereon.
- (6) Any contract to convey an undivided share in land made before or after the commencement of this Act, shall be deemed to be sufficiently complied with by the conveyance of a corresponding share in the proceeds of sale of land in like manner as if the contract had been to convey that corresponding share.
- (7) Where a purchaser has power to acquire land compulsorily, and a contract, whether by virtue of a notice to treat or otherwise, is subsisting under which title can be made without payment of the compensation money into court, title shall be made in that way unless the purchaser, to avoid expense or delay or for any special reason, considers it expedient that the money should be paid into court.
- (8) A vendor shall not have any power to rescind a contract by reason only of the enforcement of any right under this section.
- (9) This section only applies in favour of a purchaser for money or moneys worth.”

Rights protected by registration.

- 5 The following paragraph shall be inserted at the end of section eight of the principal Act :—

“Where the registration cannot be cancelled or the person entitled to the equitable interest refuses to concur in the conveyance, this section shall not affect the right of any person to rescind the contract;”

Exchanges.

- 6 The statutory provisions relating to contracts for sale of land shall, where applicable, apply to contracts for an exchange of land made after the commencement of the principal Act.

Conditions of sale.

- 7 (1) The following proviso shall be inserted at the end of subsection (3) of section three of the Conveyancing Act, 1881:—

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

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

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- (iii) any document creating any limitation or trust by reference to which any part of the property is disposed of by an abstracted document.”
- (2) References in subsection (6) of the said section three to documents and evidence in the possession of a vendor shall apply where the same are in the possession of his mortgagee or trustee.
- (3) The following rule shall be substituted for the fifth rule in section two of the Vendor and Purchaser Act, 1874 :—
- “A vendor shall be entitled to retain documents of title where—
- (a) he retains any part of the land to which the documents relate, or
- (b) the document consists of a trust instrument or other instrument creating a trust which is still subsisting, or an instrument relating to the appointment or discharge of a trustee of a subsisting trust.”
- (4) The words " where the court refuses to grant specific performance of a contract, or in any action for the return of a deposit, the court may, if it thinks fit, order the repayment of any deposit " shall be inserted at the end of section nine of the Vendor and Purchaser Act, 1874.

Supplemental documents.

- 8 (1) The following section shall be substituted for section fifty-three of the Conveyancing Act, 1881 :—
- Any instrument expressed to be supplemental to a previous instrument, shall, as far as may be, be read and have effect as if the supplemental instrument contained a full recital of the previous instrument:
- Provided that nothing in this section shall operate to give any right to an abstract or production of any such previous instrument, and a purchaser may accept the same evidence that the previous instrument does not affect the title as if it had merely been mentioned in the supplemental instrument.”
- (2) This paragraph shall have effect in relation to instruments whether executed before or after the commencement of the principal Act.

Corporations.

- 9 (1) Subsection (1) of section seventy-three of the principal Act shall take effect in favour of a purchaser.
- (2) In subsection (4) of section seventy-three of the principal Act, the words " in favour of a purchaser " shall be substituted for the words " unless the contrary is proved, " and in subsection (5) of the same section the words " to transactions wherever effected but " shall be inserted after " apply. "

Implied covenants in conveyance subject to rents.

- 10 (1) Covenant d implied under section seven of the Conveyancing Act, 1881, shall apply to freehold property subject to a rent in like manner as it applies to leasehold property.
- (2) In addition to the covenants implied under the said section seven there shall in the several cases in this paragraph hereinafter mentioned, be deemed to be included and

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implied, a covenant to the effect in this paragraph stated, by and with such persons as are hereinafter mentioned, that is to say :—

- A. In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land affected by a rentcharge :—

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

That the grantees or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, duly pay the said rentcharge and observe and perform all the covenants agreements and conditions contained in the deed or other document creating the rentcharge and thenceforth on the part of the owner of the land to be observed and performed :

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rentcharge or any part thereof or any breach of any of the said covenants, agreements and conditions.

Where a rentcharge has been apportioned in respect of any land, with the consent of the owner of the rentcharge, the covenants in this paragraph are implied in the conveyance of that land in like manner as if the apportioned rentcharge were the rentcharge referred to, and the document creating the rentcharge related solely to that land.

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

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

That the grantees or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rent and observe and perform all the covenants (other than the covenant to pay the entire rent) and conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land conveyed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent or any breach of any of the said covenants and conditions so far as the same relate as aforesaid.

- (ii) A covenant by a person who conveys or is expressed to convey as beneficial owner or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land affected by such rentcharge is retained, with the grantees of the land and with each of them (if more than one)—

That the conveying parties or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, pay the balance of the rentcharge (after

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deducting the apportioned rent aforesaid, and any other rents similarly apportioned in respect of land not retained) and observe and perform all the covenants (other than the covenant to pay the entire rent) and conditions contained in the deed or other document creating the rentcharge so far as the same relate to the land not included in the conveyance and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the grantees and their estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rentcharge or any breach of any of the said covenants and conditions so far as they relate as aforesaid.

- C. In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land comprised in a lease for the residue of the term or interest created by the lease:—

A covenant by the assignee or joint and several covenants by the assignees (if more than one) with the conveying parties, and with each of them if more than one—

That the assignees or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, duly pay all rent becoming due under the lease creating the term or interest for which the land is conveyed and observe and perform all the covenants, agreements and conditions therein contained and thenceforth on the part of the lessees to be observed and performed: And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rent or any breach of any of the said covenants, agreements and conditions.

Where a rent has been apportioned in respect of any land, with the consent of the lessor, the covenants in this paragraph are implied in the conveyance of that land in like manner as if the apportioned rent were the original rent reserved, and the lease related solely to that land.

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

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

That the assignees or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rent and observe and perform all the covenants (other than the covenant to pay the entire rent) agreements and conditions contained in the lease creating the term or interest for which the land is conveyed and thenceforth on the part of the lessees to be observed and performed, so far as the same relate to the land conveyed :

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And also will at all times from the date aforesaid save harmless and keep indemnified the conveying parties and their respective estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent or any breach of any of the said covenants, agreements and conditions so far as the same relate as aforesaid.

- (ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to convey, if at the date of the conveyance any part of the land comprised in the lease is retained, with the assignees of the land and with each of them (if more than one)—

That the conveying parties or the persons deriving title under them will at all times, from the date of the conveyance or other date therein stated, pay the balance, of the rent (after deducting the apportioned rent aforesaid and any other rents similarly apportioned in respect of land not retained) and observe and perform all the covenants (other than the covenant to pay the entire rent), agreements and conditions contained in the lease and on the part of the lessees to be observed and performed so far as the same relate to the land demised (other than the land comprised in the conveyance) and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the assignees and their estates and effects from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rent or any breach of any of the said covenants, agreements and conditions so far as they relate as aforesaid.

- (3) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge, or part of land comprised in a lease is, without the consent of the owner of the rentcharge or of the lessor, as the case may be, expressed to be conveyed—
- (i) Subject to or charged with the entire rent, then paragraph (B) (i) or (D) (i) of the last sub-paragraph, as the case may require, shall have effect as if the entire rent were the apportioned rent; or
 - (ii) Discharged or exonerated from the entire rent, then paragraph (b) (ii) or (d) (ii) of the last sub paragraph, as the case may require, shall have effect, as if the entire rent were the balance of the rent, and the words " other than the covenant to pay the entire rent " had been omitted.
- (4) In this paragraph " conveyance " does not include a demise by way of lease at a rent.
- (5) Any covenant which would be implied under this paragraph by reason of a person conveying or being expressed to convey as beneficial owner may, by express reference to this paragraph, be implied, with or without variation, in a conveyance, whether or not for valuable consideration, by a person who conveys or is expressed to convey as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or as committee of a lunatic, or as receiver of a defective, or under an order of the court.
- (6) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the estate or interest of the implied covenantee, and shall be capable

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

- (7) A covenant implied as aforesaid may be varied or extended by deed, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this paragraph to be implied.
- (8) In particular any covenant implied under this paragraph may be extended by providing that—
- (a) the land conveyed; or
 - (b) the part of the land affected by the rentcharge which remains vested in the covenantor; or
 - (c) the part of the land demised which remains vested in the covenantor;
- shall (as the case may require), stand charged with the payment of all money which may become payable under the implied covenant.
- (9) This paragraph applies only to conveyances made after the commencement of the principal Act.

Benefit of covenant.

- 11 The following provision shall be inserted at the end of section fifty-eight of the Conveyancing Act, 1881 :—
- “For the purposes of this section in connexion with covenants restrictive of the user of land ' successors in title ' shall be deemed to include the owners and occupiers for the time being of the land of the covenantee intended to be benefited.”

Burden of covenants relating to land.

- 12 The following section shall be inserted at the end of Part III. of the principal Act—
- (1) A covenant relating to any land of a covenantor or capable of being bound by him, shall, unless a contrary intention is expressed, be deemed to be made by the covenantor on behalf of himself his successors in title and the persons deriving title under him or them, and, subject as aforesaid, shall have effect as if such successors and other persons were expressed.
- This subsection extends to a covenant to do some act relating to the land, notwithstanding that the subject-matter may not be in existence when the covenant is made.
- (2) For the purposes of this section in connexion with covenants restrictive of the user of land " successors in title " shall be deemed to include the owners and occupiers for the time being of such. land.
- (3) This section applies only to covenants made after the commencement of this Act.”

Covenants with two or more.

- 13 Subsection (1) of section sixty of the Conveyancing Act, 1881, shall have effect in relation to covenants, contracts, bonds and obligations to which that subsection applies which are made or entered into after the commencement of the principal Act,

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as if the words " and shall be construed as being also made with each of them " were inserted at the end of the subsection.

Realisation of leasehold mortgages.

- 14 In sub-paragraph (1) of paragraph 6 of the Second Schedule to the principal Act, the words " with the leave of the court " shall be inserted after the word " excepted. "

Sales and foreclosure.

- 15 The following subsections shall be added at the end of section twenty-five of the Conveyancing Act, 1881:—

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

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

Sale of minerals or surface by mortgage.

- 16 Where the court authorises a mortgagee to dispose of mines and minerals and of the surface, or either of them separately, the powers so conferred shall have effect as if contained in the mortgage.

Documents and priorities.

- 17 (1) The following subsection shall be inserted at the end of section sixteen of the Conveyancing Act, 1881:—

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

- (2) The said section sixteen shall, in relation to any mortgage made after the commencement of the principal Act and affecting a legal estate in land, have effect as if the following subsection were contained therein:—

“(4) Every mortgage affecting a legal estate in land, whether legal or equitable (not being a mortgage protected by the deposit of documents relating to the legal estate affected), shall rank according to its date of registration as a land charge pursuant to the Land Charges Acts.

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

Leasing powers, &c.

- 18 (1) In the case of mortgages made after the commencement of the principal Act, leases may be made under section eighteen of the Conveyancing Act, 1881 :—
- (a) As to agricultural or occupation leases for any term not exceeding fifty years ;
 - (b) As to building leases for any term not exceeding nine hundred and ninety-nine years.
- (2) A mortgagor or mortgagee may by agreement in writing, whether or not contained in the mortgage deed, reserve or confer on the mortgagor or mortgagee or both "any further or other powers relating to leasing or the surrender of leases; and any further or other powers shall take effect in like manner as the statutory powers and with all the like incidents effects and consequences :
- Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgagee joins in or adopts the agreement.
- (3) A mortgagee may delegate his powers to lease or to accept surrenders of leases to a receiver appointed by him under the statutory power, and, when directed by a mortgagee to insure, the receiver may insure to the extent to which the mortgagee (if at all) might have insured.

Receivers.

- 19 Where under the statutory power a receiver is appointed of the income of the mortgaged property, " income " extends to the mortgaged property if that property consists of an interest in income or of a rentcharge or an annual or other periodical sum.

Sale by mortgagee.

- 20 A conveyance on sale by a mortgagee made after the commencement of the principal Act, shall be deemed to have been made in exercise of the statutory power unless a contrary intention appears.

Application of money by receiver.

- 21 In subsection (8) of section twenty-four of the Conveyancing Act, 1881, the words " In or towards discharge of the principal money if so directed in writing by the mortgagee " shall be inserted after " due under the mortgage. "

Reconveyances.

- 22 (1) At the end of subsection (1) Of section eighty-four of the principal Act, the following words shall be inserted:—
- “but without prejudice to any term or other interest which is paramount to the estate or interest of the mortgagee or other person in whom the mortgaged property was vested.”
- (2) At the end of subsection (6) of the same section the following words shall be inserted :
—

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“subject to any interest which is paramount to the mortgage.”

Powers of attorney.

- 23 (1) At the end of subsection (4) of section eighty of the principal Act the following words shall be inserted:—

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

- (2) At the end of section seventy-nine of the principal Act the following words shall be inserted:—

“and no right to rescind a contract shall arise by reason of the enforcement of the provisions of this section.”

- (3) At the end of subsection (3) of section eighty of the principal Act the following words shall be inserted :—

“unless the power is protected by a caution or other entry on the register.”

Entailed interests.

- 24 (1) At the end of subsection (1) of section seventeen of the principal Act the following paragraph shall be inserted :—

“Personal estate so entailed (not being chattels settled as heirlooms) may be invested, applied, and otherwise dealt with as if the same were capital money or securities representing capital money arising under the Settled Land Acts from land settled on the like trusts.”

- (2) In subsection (4) of the same section the words " or as tenant by the curtesy" shall be inserted after " other person. "

- (3) At the end of subsection (4) of the said section seventeen the following subsection shall be inserted:—

“(5) Where personal chattels are settled without reference to settled land on trusts creating entailed interests therein, the trustees, with the consent of the usufructuary for the time being if of full age, may sell the chattels or any of them, and the net proceeds of any such sale shall be held in trust for and shall go to the same persons successively, in the same manner and for the same interests, as the chattels sold would have been held and gone if they had not been sold, and the income of investments representing such proceeds of sale shall be applied accordingly.”

Restriction on executory limitations.

- 25 Section ten of the Conveyancing Act, 1882, shall apply to persons entitled to property for an estate in fee simple or absolutely or for any less interest, not being an entailed interest, with an executory limitation over as therein mentioned.

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Dealings with life interests, reversions and other equitable interests.

26 The following section shall be inserted at the end of Part III of the principal Act:—

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

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

- (2) (i) In the case of a dealing with an equitable interest in settled land, capital money or securities representing capital money, the persons to be served with notice, of the ' dealing shall be the trustees of the settlement; and where the equitable interest is created by a derivative or subsidiary settlement, the persons to be served with notice shall be the trustees of that settlement.
- (ii) In the case of a dealing with an equitable interest in the proceeds of sale of land or in the rents and profits until sale, the persons to be served with notice shall, as heretofore, be the trustees for sale.
- (iii) In any other case the person to be served with notice of a dealing with an equitable interest in land shall be the estate owner of the land affected.

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

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

- (3) A notice, otherwise than in writing, given to, or received by, a trustee after the commencement of this Act as respects any dealing with an equitable interest in real or personal property, shall not affect the priority of competing claims of purchasers in that equitable interest.
- (4) Where, as respects any dealing with an equitable interest in real or personal property—
- (a) the trustees are not persons to whom a valid notice of the dealing can be given; or
- (b) there are no trustees to whom a notice can be given; or
- (c) for any other reason a valid notice cannot be served, or cannot be served without unreasonable cost or delay
- a purchaser may at his own cost require that—
- (i) a memorandum of the dealing be endorsed, written on or permanently annexed to the instrument creating the trust;
- (ii) the instrument be produced to him by the person having the possession or custody thereof to prove that a sufficient memorandum has been placed thereon Or annexed thereto.

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

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

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

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

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

- (7) Nothing in this section affects any priority acquired before the commencement of this Act.
- (8) Where a notice in writing of a dealing with an equitable interest in real or personal property has been served on a trustee under this section, the trustees from time to time of the property affected shall be entitled to the custody of the notice, and the notice shall be delivered to them by any person who for the time being may have the custody thereof; and, subject to the payment of costs, any person interested in the equitable interest may require production of the notice.
- (9) The liability of the estate owner of the legal estate affected to produce documents and furnish information to persons entitled to equitable interests therein, shall correspond to the liability of a trustee for sale to produce documents and furnish information to persons entitled to equitable interests in the proceeds of sale of the land.
- (10) This section does not apply until a trust has been created, and in this section ' dealing ' includes a disposition by operation of law.”

Power to nominate a trust corporation to receive notices.

27 The following section shall be inserted at the end of Part III. of the principal Act:—

- (1) By any settlement or other instrument creating a trust, a trust corporation may be nominated to whom notices of dealings affecting real or personal property may be given, whether or not under the foregoing section, and in default of such nomination the trustees (if any) of the instrument, or the court on the application of any person interested, may make the nomination.
- (2) The person having the possession or custody of any instrument on which notices under that section may be endorsed shall cause the name of the trust corporation to whom notices may be given to be endorsed upon that instrument.
- (3) Notice given to any trust corporation whose name is so endorsed shall operate in the same way as a notice or endorsement under the foregoing section.

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- (4) Where a trust corporation is acting for the purposes of this section a notice given to a trustee of the trust instrument of a dealing relating to the trust property shall forthwith be delivered or sent by post by the trustee to the trust corporation, and until received by the corporation shall not affect any priority. .
- (5) A trust corporation shall not be nominated for the purposes of this section—
 - (a) unless the corporation consents to act; or
 - (b) where the corporation has any beneficial interest in or charge upon the trust property; or
 - (c) where a trust corporation is acting as the trustee or one of the trustees of the instrument creating the trust.
- (6) Where a trust corporation acting for the purposes of this section becomes entitled to any beneficial interest in or charge upon the trust property, another trust corporation shall be nominated in its place and all documents relating to notices affecting the trust shall be delivered to the corporation so nominated
- (7) A trust corporation acting for the purposes of this section shall be bound to keep a separate register of notices of dealings in respect of each equitable interest and shall enter therein—
 - (a) the date of the notice,
 - (b) the name of the person giving the notice,
 - (c) short particulars of the equitable interest intended to be affected, and
 - (d) short particulars of the effect of the dealing if mentioned in the notice.
- (8) The trust corporation may, before making any entry in the register, require the applicant to pay a fee not exceeding the prescribed fee.
- (9) Subject to the payment of a fee not exceeding the prescribed fee the trust corporation shall permit any person who would, if the corporation had been the trustee of the trust instrument, have been entitled to inspect notices served on the trustee, to inspect and take copies of the register and any notices held by the corporation.
- (10) Subject to the payment by the applicant of a fee not exceeding the prescribed fee, the trust corporation shall reply to all inquiries respecting notices received by the corporation in like manner and in the same circumstances as if the corporation had been the trustee of the trust instrument.
- (11) In this section " prescribed fee " means in cases where the Public Trustee acts as a trust corporation for the purposes of this section, the fee prescribed by the Treasury, with the sanction of the Lord Chancellor."

Apportionment of conditions.

- 28
- (1) Section twelve of the Conveyancing Act, 1881, shall apply in any case where the severance of the reversion is effected after the commencement of the principal Act, whether the lease or tenancy was made before or after the thirty-first day of December, eighteen hundred and eighty-one.
 - (2) In that section " right of re-entry " includes a right to determine the lease by notice to quit or otherwise, but where the notice is served by a person entitled to a severed

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part of the reversion so that it extends to part only of the land demised, the lessee may, within one month determine the lease in regard to the rest of the land by giving to the owner of the reversionary estate therein a counter notice expiring at the same time as the original notice.

Lessors and lessess covenants.

- 29 Sections ten and eleven of the Conveyancing Act, 1881, shall apply if the reversion is severed after the commencement of the principal Act, whether the lease or tenancy was made before or after the thirty-first day of December, eighteen hundred and eighty-one.

Relief against forfeitures.

- 30 The words " and the foregoing repeal shall not apply where the land leased has been assigned, underlet, parted with, or disposed of to a limited company " in subsection (1) of section seventy-eight of the principal Act are hereby repealed.

Relief against notice to effect decorative repairs.

- 31 In addition to the powers conferred by section fourteen of the Conveyancing Act, 1881, the following provision shall have effect as if inserted immediately after that section :—
- (1) After a notice is served on a lessee relating to the internal decorative repairs to a house or other building he may apply to the court for relief, and if, having regard to all the circumstances of the case (including in particular the length of the lessee's term or interest remaining unexpired) the court is satisfied that the notice is unreasonable, it may, by order, wholly or partially relieve the lessee from liability for such repairs.
 - (2) This section does not apply—
 - (i) where the liability arises under an express covenant or agreement to put the property in a decorative state of repair and the covenant or agreement has never been performed;
 - (ii) to any matter necessary or proper—
 - (a) for putting or keeping the property in a sanitary condition; or
 - (b) for the maintenance or preservation of the structure;
 - (iii) to any statutory liability to keep a house in all respects reasonably fit for human habitation;
 - (iv) to any covenant or stipulation to yield up the house or other building in a specified state of repair at the end of the term.
 - (3) In this section " lease " includes an underlease and an agreement for a lease, and " lessee " has a corresponding meaning and includes any person liable to effect the repairs.
 - (4) This section applies whether the notice is served before or after the commencement of this Act, and has effect notwithstanding any stipulation to the contrary.”

Reversionary leases,

- 32 At the end of section one hundred and forty-six of the principal Act there shall be inserted the words " or, as respects terms or interests created before the commencement of this Act, operate to Vary any statutory or other obligations imposed in respect of such terms or interests. "

Equitable apportionment of rents and remedies for non-payment or breach of covenant.

- 33 The following provisions shall have effect as if the same were inserted after section seventy-seven of the principal Act:—

- (1) Where in a conveyance for valuable consideration, other than a mortgage, of part of land which is affected by a rentcharge, such rentcharge or a part thereof is without the consent of the owner thereof, expressed to be—
- (a) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained; or
 - (b) charged exclusively on the land retained or any part thereof in exoneration of the land conveyed; or
 - (c) apportioned between the land conveyed or any part thereof and the land retained by the grantor or any part thereof;

then, without prejudice to the rights of the owner of the rentcharge, such charge or apportionment shall be binding as between the grantor and the grantee under the conveyance and their respective successors in title.

- (2) Where—
- (a) any default is made in payment of the whole or part of a rentcharge by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or
 - (b) any breach occurs of any of the covenants (other than in the case of an apportionment, the covenant to pay the entire rentcharge) or conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land retained or conveyed, as the case may be;

the owner for the time being of any other land affected by the entire rentcharge who—

- (i) pays or is required to pay the whole or part of the rentcharge which ought to have been paid by the defaulter aforesaid; or
- (ii) incurs any costs damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until, by means of such distress and receipt of income or otherwise the whole or part of the rentcharge (charged or apportioned as aforesaid) so unpaid and all costs, damages, and expenses incurred by reason of the nonpayment thereof, or of the breach of the said covenants and conditions, are fully paid or satisfied.

- (3) Where in a conveyance for valuable consideration, other than a mortgage, of part of land comprised in a lease, for the residue of the term or interest created by the lease, the rent reserved by such lease or a part thereof is, without the consent of the lessor, expressed to be—

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- (a) charged exclusively on the land conveyed, or any part thereof in exoneration of the land retained by the assignor; or
- (b) charged exclusively on the land retained by the assignor, or any part thereof, in exoneration of the land conveyed; or
- (c) apportioned between the land conveyed, or any part thereof, and the land retained by the assignor or any part thereof;

then, without prejudice to the rights of the lessor, such charge or apportionment shall be binding as between the assignor and the assignee under the conveyance and their respective successors in title.

(4) Where—

- (a) any default is made in payment of the whole or part of a rent by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or
- (b) any breach occurs of any of the lessee's covenants (other than in the case of an apportionment the covenant to pay the entire rent) or conditions contained in the lease, so far as the same relate to the land retained or conveyed, as the case may be;

the lessee for the time being of any other land comprised in the lease, in whom as respects that land, the residue of the term or interest created by the lease is vested, who—

- (i) pays or is required to pay the whole or part of the rent which ought to have been paid by the defaulter aforesaid; or
- (ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land comprised in the lease in respect of which the default or breach is made or occurs or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until (so long as the term or interest created by the lease is subsisting) by means of such distress and receipt of income or otherwise, the whole or part of the rent (charged or apportioned as aforesaid) so unpaid, and all costs, damages and expenses incurred by reason of the nonpayment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

- (5) The remedies conferred by this section take effect so far only as they might have been conferred by the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, but a trustee, personal representative, mortgagee or other person in a fiduciary position has and shall be deemed always to have had power to confer the same or like remedies.
- (6) This section applies only if and so far as a contrary intention is not expressed in the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, and shall take effect subject to the terms of that conveyance and to the provisions therein contained.
- (7) The remedies conferred by this section apply only where the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned is made after the commencement of this Act, and do not apply where the rent is Charged exclusively as aforesaid or legally apportioned with the consent of the owner or lessor.

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- (8) The rule of law relating to perpetuities does not affect the powers or remedies conferred by this section or any like powers or remedies expressly conferred, before or after the commencement of this Act, by an instrument.”

Indemnities against rents.

- 34 The words " or against the breach of any covenant or condition in relation to land " shall be inserted in paragraph (a) of subsection (2) of section seventy-eight of the principal Act, after the words " in respect of any land, " and also in paragraph (b) of the same subsection after the words " in respect of land."

Redemption of quit rents, &c.

- 35 (1) The following paragraph shall be inserted at the end of subsection (1) of section forty-five of the Conveyancing Act, 1881 :—

“Where the rent is not perpetual the Minister may authorise the purchase of a Government annuity of an amount equal to the rent, payable during the residue of the period for which the rent would have been payable, in such names as he may think fit, and give directions as to the payment of the annuity, and the amount required to purchase that annuity shall be the redemption money.”

- (2) Subsection (1) of section ninety-two of the principal Act shall have effect as if the words " or the Government annuity " were inserted after " by the Minister " and references in that section to the fund in court shall include the annuity.

Commons and waste land.

- 36 Section one hundred and two of the principal Act shall not apply to any common or manorial waste which is for the time being held for Naval, Military or Air Force purposes, and in respect of which rights of common have been extinguished or cannot be exercised.

Notices.

- 37 The provisions of section sixty-seven of the Conveyancing Act, 1881, shall, unless a contrary intention appears, apply to notices required to be served by any instrument affecting property executed or coming into operation after the commencement of the principal Act.

Constructive notice.

- 38 The following paragraph shall be inserted at the end of section three of the Conveyancing Act, 1882 :—

“A purchaser shall not be prejudicially affected by notice of any instrument or matter capable of registration under the provisions of the Land Charges Acts which is void or not enforceable as against him under those Acts, by reason of the non-registration thereof.”

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

Application to the Crown.

- 39 (1) Nothing in the principal Act shall be construed as rendering any property of the Crown subject to distress, or liable to be taken or disposed of by means of any distress.
- (2) The principal Act shall not in any manner (save as otherwise expressly provided) affect or alter the descent, devolution or tenure or the nature of the estates and interests of or in any land for the time being vested in His Majesty either in right of the Crown or of the Duchy of Lancaster or of or in any land for the time being belonging to the Duchy of Cornwall and held in right or in respect of the said Duchy, but so nevertheless that, after the commencement of this Act, no estates, interests or charges in or over any such lands as aforesaid shall be conveyed or created, except such estates, interests or charges as are capable under the principal Act of subsisting or of being conveyed or created.
- (3) Subject as aforesaid the principal Act shall bind the Crown.

TRANSITIONAL PROVISIONS

Party structures and open spaces.

- 40 The following paragraph shall be inserted at the end of the Third Schedule to the principal Act:—
- “5 (1) Where, immediately before the commencement of this Act, a party wall or other party structure is held in undivided shares, the ownership thereof shall be deemed to be severed vertically as between the respective owners, and the owner of each part shall have such rights to support and of user over the rest of the structure as may be requisite for conferring rights corresponding to those subsisting at the commencement of this Act.
- (2) Where, immediately before the commencement of this Act, an open space of land (with or without any building used in common for the purposes of any adjoining land) is held in undivided shares, in right whereof each owner has rights of access and user over the open space, the ownership thereof shall vest in the Public Trustee on the statutory trusts which shall be executed only with the leave of the court, and, subject to any order to the contrary, each person who would have been a tenant in common, shall, until the open space is conveyed to a purchaser, have rights of access and user over the open space corresponding to those which would have subsisted if the tenancy in common had remained subsisting.
- (3) Any person interested may apply to the court for an order declaring the rights and interests under the foregoing provisions, of the persons interested in any such party structure or open space, or generally may apply in relation to those provisions, and the court may make such order as it thinks fit.
- (4) The provisions as to undivided shares do not, save as mentioned in this paragraph, apply to the party structures and open spaces aforesaid.”

Mortgages not protected by deposit of documents.

41 Paragraphs 1 and 2 of the Second Schedule to the principal Act shall have effect as if the following sub-paragraph were inserted at the end of each of those paragraphs:—

“(9) A mortgage affecting a legal estate made before the commencement of this Act which is not protected, either by a deposit of documents of title relating to the legal estate or by registration as a land charge, shall not, as against a purchaser in good faith without notice thereof, obtain any benefit by reason of being converted into a legal mortgage by this section, but shall, in favour of such purchaser, be deemed to remain an equitable interest.

This sub-paragraph does not apply to mortgages or charges registered or protected under the Land Transfer Acts, or to mortgages or charges registered in a local deeds register.”

PART II

PROVISIONS FACILITATING CONSOLIDATION OF THE LAW OF PROPERTY AND CONVEYANCING

Conveyances over-reaching certain equitable interests and powers.

1 The following section shall be substituted for section three of the principal Act:—

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

- (i) the conveyance is made under the powers conferred by the Settled Land Acts, or the powers conferred by a settlement, and the equitable interest or power is capable of being overreached thereby, and the statutory requirements respecting the payment of capital money arising under the settlement are complied with;
- (ii) the conveyance is made by trustees for sale and the equitable interest or power is at the date of the conveyance capable of being overreached by such trustees under the provisions of subsection (2) of this section or independently of that subsection, and the statutory requirements respecting the payment of capital money arising under a disposition upon trust for sale are complied with;
- (iii) the conveyance is made by a mortgagee or personal representative in the exercise of his paramount powers and the equitable interest or power is capable of being overreached by such conveyance, and any capital money arising from the transaction is paid to the mortgagee or personal representative;
- (iv) the conveyance is made under an order of the court and the equitable interest or power is bound by such order and any capital money arising from the transaction is paid into or in accordance with the order of the court.

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

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

such commencement, under the disposition upon trust for sale the trustees (whether original or substituted) are either—

- (a) two or more individuals or the successors in office of two or more individuals approved or appointed by the court; or
- (b) a trust corporation ;

such equitable interest or power shall, notwithstanding any stipulation to the contrary, be overreached by the conveyance, and shall, according to its priority, take effect as if created or arising by means of a primary trust affecting the proceeds of sale and the income of the land until sale.

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

- (i) Any equitable interest protected by a deposit of documents relating to the legal estate affected;
- (ii) The benefit of any covenant or agreement restrictive of the user of land;
- (iii) Any easement, liberty, or privilege over or affecting land and being merely an equitable interest (in this Act referred to as an " equitable easement ");
- (iv) The benefit of any contract (in this Act referred to as an ' estate contract') to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option to purchase, a right of pre-emption, or any other like right;
- (v) Any equitable interest protected by registration under the Land Charges Acts, other than—
 - (a) an annuity within the meaning of the Judgments Act, 1855;
 - (b) a limited owner's charge or a general equitable charge within the meaning of the Land Charges Acts.

(4) Subject to the protection afforded by this section to the purchaser of a legal estate, nothing contained in this section shall deprive a person entitled to an equitable charge of any of his rights or remedies for enforcing the charge.

(5) (5) So far as regards the following interests, created before the commencement of this Act (which accordingly are not within the provisions of the Land Charges Acts), namely—

- (a) the benefit of any covenant or agreement restrictive of the user of the land;
- (b) any equitable easement;
- (c) the interest under a puisne mortgage within the meaning of the Land Charges Acts, unless and until acquired under a transfer made after the commencement of this Act;
- (d) the benefit of an estate contract, unless and until the same is acquired under a conveyance made after the commencement of this Act;

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

Creation and disposition of equitable interests.

2 The following provisions shall have effect in relation to the creation and acquisition of equitable interests and any existing enactments relating thereto shall have effect accordingly:—

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

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

- (2) All rights and interests in land may be disposed of, including—
- (a) a contingent, executory or future equitable interest in any land, or a possibility coupled with an interest in any land, whether or not the object of the gift or limitation of such interest or possibility be ascertained;
 - (b) a right of entry, into or upon land whether immediate or future, and whether vested or contingent.
- (3) All rights of entry affecting a legal estate which are exercisable on condition broken or for any other reason may after the said date be made exercisable by any person and the persons deriving title under him, but in regard to an estate in fee simple (not being a rentcharge held for a legal estate) only within the period authorised by the rule relating to perpetuities.”

Satisfied terms.

3 The Satisfied Terms Act, 1845, as amended by the principal Act, is hereby repealed, and the following provisions shall have effect in lieu thereof :—

- “(1) Where the purposes of a term of years created or limited at any time out of freehold land become satisfied either before or after the commencement of this Act (whether or not that term either by express declaration or by construction of law becomes attendant upon the freehold reversion) it shall merge in the reversion expectant thereon and shall cease accordingly.
- (2) Where the purposes of a term of years created or limited, at any time, out of leasehold land, become satisfied after the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly.
- (3) Where the purposes are satisfied only as respects part of the land comprised in a term, this section shall have effect as if a separate term had been created in regard to that part of the land.”

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

Saving of lessor's and lessee's covenants.

- 4 The following subsection shall be substituted for subsection (4) of section twenty-eight of the principal Act:—

“(4) Nothing in this Part of this Act shall affect prejudicially the right to enforce any lessor's or lessee's covenants, agreements or conditions (including a valid option to purchase or right of pre-emption over the reversion) contained in any such instrument as is in this section mentioned, the benefit of burden of which runs with the reversion or the term.

This subsection shall apply where the covenant, agreement or condition is contained in any instrument:—

- (a) creating a term of years absolute; or
- (b) varying the rights of the lessor or lessee under the instrument creating the term.”

Saving of certain legal estates and powers.

- 5 The following section shall be substituted for section twenty-nine of the principal Act:—

- (1) A fee simple which, by virtue of the Lands Clauses Acts, the School Sites Acts, or any similar statute, is liable to be divested, is for the purposes of this Act a fee simple absolute, and remains liable to be divested as if this Act had not been passed.
- (2) A fee simple vested in a corporation which is liable to determine by reason of the dissolution of the corporation is, for the purposes of this Act, a fee simple absolute.
- (3) The provisions of—
 - (a) the Forfeiture Act, 1870, in regard to the land of a convict;
 - (b) the Friendly Societies Act, 1896, in regard to land to which that Act applies;
 - (c) any other statutes conferring special facilities or prescribing special modes, whether by way of registered memorial or otherwise, for disposing of or acquiring land, or providing for the vesting, by conveyance or otherwise, of the land in trustees or any person or the holder for the time being of an office or any corporation sole or aggregate (including the Crown);

shall remain in full force.

Nothing in this subsection shall be deemed to authorise an entailed interest to take effect otherwise than as an equitable interest.

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

Registration in Middlesex and Yorkshire.

- 6 The following section shall be substituted for section six of the principal Act:—

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

- (1) It shall not be necessary to register a memorial of any instrument made after the commencement of this Act in any local deeds registry unless the instrument operates to transfer or create a legal estate, or to create a charge thereon by way of legal mortgage; nor shall the registration of a memorial of any instrument not required to be registered affect any priority.
- (2) Probates and letters of administration shall be treated as instruments capable of transferring a legal estate to personal representatives.
- (3) Memorials of all instruments capable of transferring or creating a legal estate or charge by way of legal , mortgage, may, when so operating, be registered.”

Possession of documents.

- 7 Section thirty-two of the principal Act shall apply only to documents relating to a legal estate in land.

Conveyances to infants.

- 8 The provisions of the Sixth Schedule to the principal Act relating to conveyances of legal estates to infants shall have effect as follows:—

- “(1) A conveyance of a legal estate in land to an infant alone or to two or more persons jointly, both or all of whom are infants, shall have such operation as is provided for in the Settled Land Acts.
- (2) A conveyance of a legal estate in land to an infant, jointly with one or more other persons of full age shall operate to vest the legal estate in the other person or persons on the statutory trusts but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale, or affect the right of a tenant for life or statutory owner to require settled land to be vested in him.
- (3) The foregoing provisions of this section do not apply to conveyances on trust or by way of mortgage.
- (4) A conveyance of a legal estate to an infant alone or to two or more persons jointly, both or all of whom are infants, on any trusts, shall operate as a declaration of trust and shall not be effectual to pass any legal estate.
- (5) A conveyance of a legal estate in land to an infant jointly with one or more other persons of full age on any trusts shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the land intended to be thereby provided for the infant.
- (6) A grant or transfer of a legal mortgage of land to an infant shall operate only as an agreement for valuable consideration to execute a proper conveyance when the infant attains full age, and in the meantime to hold any beneficial interest in the mortgage debt in trust for the persons for whose benefit the conveyance was intended to be made:

Provided that, if the conveyance is made to the infant and another person or other persons of full age, it shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the mortgage debt intended to be thereby provided for the infant.”

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

Powers of management.

- 9 Land acquired under sub-paragraph (1) of paragraph 4 of the Fourth Schedule to the principal Act shall be conveyed to the trustees on trust for sale.

Joint tenancies.

- 10 The provisions of the Third Schedule to the principal Act relating to joint tenancies shall have effect as follows :—

“(1) Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants, it shall be held on trust for sale, in like manner as if the persons beneficially entitled were tenants in common, but not so as to sever their joint tenancy in equity.

(2) No severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise; but this subsection does not affect the right of a joint tenant to release his interest to the other joint tenants, or the right to sever a joint tenancy in an equitable interest (whether or not the legal estate is vested in the joint tenants):

Provided that where a legal estate (not being settled land) is vested in joint tenants beneficially, and any tenant desires to sever the joint tenancy in equity, he shall give to the other joint tenants a notice in writing of such desire or do such other acts or things as would, in the case of personal estate, have been effectual to sever the tenancy in equity, and thereupon, under the trust for sale affecting the land, the net proceeds of sale, and the net rents and profits until sale, shall be held upon the trusts which would have been requisite for giving effect to the beneficial interests if there had been an actual severance.

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

Application of insurance money.

- 11 The following section shall be substituted for section one hundred and five of the principal Act:—

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

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

- (a) any stipulation to the contrary contained in the contract;
- (b) any requisite consents of the insurers ;
- (c) the payment by the purchaser of the proportionate part of the premium from the date of the contract.

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

- (3) This section applies to a sale or exchange by an order of the court, as if—
- (a) for references to the ' vendor ' there were substituted references to the ' person bound by the order ';
 - (b) for the reference to the completion of the contract there were substituted a reference to the payment of the purchase or equality money (if any) into court;
 - (c) for the reference to the date of the contract there were substituted a reference to the time when the contract becomes binding.”

Discharge of incumbrances.

- 12 Section five of the Conveyancing Act, 1881, shall apply to sales and exchanges made at any time and to incumbrances whether created by statute or otherwise.

Lands lie in grant.

- 13 Section two of the Real Property Act, 1845, and section forty-nine of the Conveyancing Act, 1881, are hereby repealed, and the following provisions shall have effect in lieu thereof:

- “(1) All lands and all interests therein lie in grant and are incapable of being conveyed by livery or livery and seisin, or by feoffment, or by bargain and sale; and a conveyance of an interest in land may operate to pass the possession or right to possession thereof, without actual entry, but subject to all prior rights thereto.
- (2) The use of the word " grant " is not necessary to convey land or to create any interest therein.”

Conveyances to be by deed.

- 14 (1) All conveyances of land or of any interest therein are void for the purpose of conveying or creating a legal estate unless made by deed.
- (2) This section shall not apply to—
- (a) Assents by a personal representative;
 - (b) Disclaimers made in accordance with section fifty-four of the Bankruptcy Act, 1914, or not required to be evidenced in writing;
 - (c) Surrenders by operation of law, including surrenders which may, by law, be effected without writing;
 - (d) Leases or tenancies or other assurances not required by law to be made in writing;
 - (e) Receipts not required by law to be under seal;
 - (f) Vesting orders of the court or other competent authority;
 - (g) Conveyances taking effect by operation of law.
- (3) The foregoing provisions of this paragraph shall have effect in substitution for section three of the Real Property Act, 1845.

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

Amendment of ss. 1-3 and 7-9 of Statute of Frauds.

15 Sections one to three and seven to nine of the Statute of Frauds shall take effect as if inserted in the principal Act and be read as follows :—

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

- (a) no interest in land can be created or disposed of except by writing signed by the person creating or conveying the same, or by his agent thereunto lawfully authorised in writing, or by will, or by operation of law;
 - (b) a declaration of trust respecting any land or any interest therein must be manifested and proved by some writing signed by some person who is able to declare such trust or by his will;
 - (c) a disposition of an equitable interest or trust subsisting at the time of the disposition, must be in writing signed by the person disposing of the same or by his agent thereunto lawfully authorised in writing or by will.
- (2) This section does not affect the creation or operation of resulting, implied or constructive trusts.
- (3) All interests in land created by parol and not put in writing and signed by the persons so creating the interest, or by their agents thereunto lawfully authorised in writing, have, notwithstanding any consideration having been given for the same, the force and effect of interests at will only.
- (4) Nothing in the foregoing provisions shall affect the creation by parol of leases taking effect in possession for a term not exceeding three years, whether or not the lessee is given power to extend the term, at the best rent which can be reasonably obtained without taking a fine.
- (5) Nothing in the foregoing provisions shall—
- (a) invalidate dispositions by will; or
 - (b) affect any interest validly created before the commencement of this Act; or
 - (c) affect the right to acquire an interest in land by virtue of taking possession; or
 - (d) affect the operation of the law relating to part performance.”

Voluntary conveyance.

16 The following provision shall be inserted at the end of section seventy-two of the principal Act:—

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

General words.

17 In subsection (3) of section six of the Conveyancing Act, 1881, after the words "heriots fines" there shall be inserted the words "or the right to compensation on the

extinguishment of any subsisting quit rents, reliefs, heriots, fines and other manorial incidents. "

Confirmation of past transactions.

- 18 The power to confirm past transactions, conferred by section twenty-five of the principal Act, when exercised by any person other than an absolute owner, shall be exercisable only with the leave of the court.

Restrictive covenants.

- 19 (1) In subsection (4) of section ninety of the principal Act, for " Authority " where that word first occurs there shall be substituted the words " Reference Committee mentioned in this section. "

- (2) The words

“nor to restrictions created or imposed—

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

(b) for civil aviation purposes under the powers of the Air Navigation Act, 1920,”

shall be inserted at the end of subsection (10) of the said section ninety.

Realisation of mortgages.

- 20 (1) It is hereby declared that sub-paragraph (4) of paragraph 5, and sub-paragraph (4) of paragraph 6 of the Second Schedule to the principal Act have effect for the purpose of enabling the sub-mortgagee to convey the fee simple or the leasehold reversion, as the case may be, or to acquire it by foreclosure, enlargement, vesting or otherwise.

- (2) After the words " if any " in sub-paragraph (5) of paragraph 5 of the said Schedule, the words " not being merely equitable charges " shall be inserted.

Realisation of equitable charges by the court.

- 21 The following paragraph shall be substituted for paragraph 7 of the Second Schedule to the principal Act:—

“7 (1) Where an order for sale is made by the court in relation to an equitable mortgage on land (not secured by a legal term of years absolute or by a charge by way of legal mortgage) the court may, in favour of a purchaser make a vesting order conveying the land or may appoint a person to convey the land or create and vest in the mortgagee a legal term of years absolute to enable him to carry out the sale, as the case may require, in like manner as if the mortgage had been created by deed by way of legal mortgage pursuant to this Act, but without prejudice to any incumbrance having priority to the equitable mortgage unless the incumbrancer consents to the sale.

- (2) This paragraph shall apply to equitable mortgages made or arising before or after the commencement of this Act, but not to a mortgage which has been overreached under powers conferred by this Act or otherwise.”

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

Tacking and further advances.

22 The following sub-paragraphs shall be substituted for sub-paragraphs (2) to (5) of paragraph 8 of the Second Schedule to the principal Act:—

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

- (a) if an arrangement has been made to that effect with the subsequent mortgagees ; or
- (b) if he had no notice of the subsequent mortgages at the time when the further advance was made by him; or
- (c) if the mortgage imposes an obligation on the prior mortgagee to make such further advances whether or not he had such notice as aforesaid.

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

(3) In relation to the making of further advances after the commencement of this Act a mortgagee shall not be deemed to have notice of a mortgage merely by reason that it was registered as a land charge or in a local deeds registry, if it was not so registered at the date of the original advance or when the last search (if any) by or on behalf of the mortgagee was made, whichever last happened.

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

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

Provided that nothing in this Act shall affect any priority acquired before the commencement of this Act by tacking, or in respect of further advances made without notice of a subsequent incumbrance or by arrangement with the subsequent incumbrancer.

(5) This paragraph applies to mortgages of land made before or after the commencement of this Act, but not to charges registered under the Land Transfer Acts.”

Actions for possession.

23 Subsection (5) of section twenty-five of the Supreme Court of Judicature Act, 1873, does not prejudice the power of a mortgagor, independently of that subsection, to take proceedings in his own name only, either in right of any legal estate vested in him or otherwise.

Notice of trusts affecting mortgage debts.

24 The following section shall be substituted for section eighty-five of the principal Act:

- (1) A person dealing in good faith with a mortgagee, or with the mortgagor if the mortgage has been wholly or partially discharged, released or postponed, shall not be concerned with any trust at any time affecting the mortgage

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

- (a) that the mortgagees, if more than one, are or were entitled to the mortgage money on a joint account; and
- (b) that the mortgagee has or had power to give valid receipts for the purchase money or mortgage money and the income thereof (including any arrears of interest) and to release or postpone the priority of the mortgage debt or any part thereof or to deal with the same or the mortgaged property or any part thereof;

without investigating the equitable title to the mortgage debt or the appointment or discharge of trustees in reference thereto.

- (2) This section shall apply to mortgages made before or after the commencement of this Act, but only as respects dealings effected after that date.
- (3) This section shall not affect the liability of any person in whom the mortgage debt is vested for the purposes of any trust to give effect to that trust.”

Forms of statutory mortgages.

- 25 In subsection (2) of section twenty-six of the Conveyancing Act, 1881, after the words " pay to the mortgagee " where those words secondly occur, the words " as well after as before any judgment is obtained under the mortgage " shall be inserted.

Attornments.

- 26 The following provisions shall have effect in relation to attornments, and any existing enactments relating thereto shall have effect accordingly :—

“(1) Where land is subject to a lease—

- (a) the conveyance of a reversion in the land expectant on the determination of the lease; or " (b) the creation or conveyance of a rentcharge to issue or issuing out of the land ;

shall be valid without any attornment of the lessee:

Provided that nothing in this subsection—

- (i) shall affect the validity of any payment of rent by the lessee to the person making the conveyance or grant before notice of the conveyance or grant is given to him by the person entitled thereunder; or
 - (ii) shall render the lessee liable for any breach of covenant to pay rent on account of his failure to pay rent to the person entitled under the conveyance or grant before such notice is given to the lessee.
- (2) An attornment by the lessee in respect of any land to a person claiming to be entitled to the interest in the land of the lessor, if made without the consent of the lessor, shall be void.

This subsection shall not apply to an attornment—

- (a) made pursuant to a judgment of a court of competent jurisdiction; or

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

- (b) to a mortgagee, by a lessee holding under a lease from the mortgagor where the right of redemption is barred; or
- (c) to any other person rightfully deriving title under the mortgagor.”

Enlargement of long terms.

27 The following paragraph shall be substituted for paragraph (i) of subsection (2) of section sixty-five of the Conveyancing Act, 1881 :—

- “(i) Any person beneficially entitled in right of the term, whether subject to any incumbrance or not, to possession of any land comprised in the term, and in the case of a married woman without the concurrence of her husband, whether or not she is entitled for her separate use or as her separate property, or is subject to a restraint on anticipation.”

Accumulations.

- 28 (1) Nothing in the Accumulations Act, 1800, shall prevent accumulations being made for raising portions for any child, or remoter issue of any grantor, settlor or testator, or for any child or remoter issue of a person taking any interest under any settlement or other disposition directing the accumulations, or to whom any interest is thereby limited.
- (2) Section one of the Accumulations Act, 1892, shall not apply to accumulations to be held as capital money for the purposes of the Settled Land Acts, whether or not the accumulations are primarily liable to be laid out in the purchase of land.

Disclaimer.

- 29 It shall not be necessary for a husband to be a party to any disclaimer by his wife under section seven of the Real Property Act, 1845, where—
- (a) the wife, if there were no disclaimer, would have been entitled to the property for her separate use or as her separate property; or
 - (b) the property consists of a trust estate.

Settlements on behalf of lunatics.

30 For the purposes of paragraph 8 of the Sixth Schedule to the principal Act " the court " means the Judge in Lunacy, except that in such cases, as may be prescribed by rules of court it shall mean the High Court; and rules in lunacy or, as respects cases within the jurisdiction of the High Court, rules of court, may be made for giving effect to the provisions of that paragraph.

Voluntary conveyances to defend creditors.

- 31 The following provisions shall be substituted for the statute 13 Elizabeth c. 5 :—
- “(1) Save as hereinafter provided, every conveyance of property made whether before or after the commencement of this Act, with intent to defraud creditors, is voidable, at the instance of any person thereby prejudiced. ”
 - (2) This provision does not—

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- (a) affect the operation of a disentailing assurance, or the law of bankruptcy for the time being in force; or
- (b) extend to any estate or interest in property conveyed for valuable consideration and in good faith, or upon good consideration and in good faith, to any person not having, at the time of the conveyance, notice of the intent to defraud creditors.”

Voluntary dispositions as respects purchasers.

32 The following provisions shall be substituted for the statute 27 Elizabeth c.4 as amended:—

- “(1) Every voluntary disposition of land made with intent to defraud a subsequent purchaser is voidable at the instance of that purchaser.
- (2) For the purposes of this provision no voluntary disposition, whenever made, shall be deemed to have been made with intent to defraud by reason only that a subsequent conveyance for valuable consideration was made, if such subsequent conveyance was made after the twenty-eighth day of June, eighteen hundred and ninety-three.”

Acquisitions of reversions.

33 The following provisions shall be substituted for the Sales of Reversions Act, 1867 :
—

- “(1) No acquisition made in good faith, without fraud or unfair dealing, of any reversionary interest in real or personal property, for money or money's worth, shall be liable to be opened or set aside merely on the ground of under value.

In this subsection ' reversionary interest' includes an expectancy or possibility.

- (2) This provision shall not affect the jurisdiction of the court to set aside or modify unconscionable bargains.”

Corporations sole.

34 In subsection (7) of section seventy-three of the principal Act the expression " corporation sole " includes the Crown.

Protection of solicitors and trustees &c/

35 The provisions of section sixty-six of the Conveyancing Act, 1881, shall apply to matters enacted in the principal Act which are similar to those referred to in that section.

Registration of memorials.

36 The following provisions shall have effect in lieu of the provisions in section six of the principal Act as to notice and of sub-paragraph (4) of paragraph 8 of the Second Schedule to that Act:—

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- “(1) The registration in a local deeds registry of a memorial of any instrument transferring or creating a legal estate or charge by way of legal mortgage, shall be deemed to constitute actual notice of the transfer or creation of the legal estate or charge by way of legal mortgage, to all persons and for all purposes whatsoever, as from the date of registration or other prescribed date, and so long as the registration continues in force.
- (2) The registration of a memorial of an instrument not required to be registered shall not operate so as to give notice of such instrument or of the contents thereof.
- (3) This section operates without prejudice to the provisions of this Act respecting the making of further advances by a mortgagee, and shall apply only to land within the jurisdiction of the registry.”

Registration under Land Charges Acts.

- 37 The following sub-paragraph shall be inserted at the end of paragraph 1 of the Seventh Schedule to the principal Act:—

“(8) The registration under the Land Charges Acts, of any instrument or matter in any register kept at the land registry or elsewhere, shall be deemed to constitute actual notice of such instrument or matter, and of the fact of the registration, to all persons and for all purposes connected with the land affected, as from the date of registration or other prescribed date and so long as the registration continues in force.

Nothing in this paragraph shall affect the provisions of this Act respecting the making of further advances by a mortgagee, and this paragraph shall apply only to instruments and matters required or authorised to be registered under the Land Charges Acts.”

TRANSITIONAL PROVISIONS

Outstanding legal estates.

- 38 The following provisions shall be substituted for the provisions of Part I. of the First Schedule to the principal Act :—

“(1) Where the purposes of a term of years, created or limited out of leasehold land, are satisfied at the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly; but where the term was vested in the owner of the reversion, then without prejudice to any protection which would have been afforded to the owner for the time being of that reversion had the term remained subsisting. Where the purposes are satisfied only as respects part of the land comprised in a term, this provision has effect as if a separate term had been created in regard to that part of the land.

(2) Where immediately after the commencement of this Act any owner of a legal estate is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any other legal estate in the same land to be surrendered, released or conveyed to him so as to merge or be extinguished, the last-mentioned estate shall by virtue of this Part of this

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Schedule be extinguished, but without prejudice to any protection which would have been afforded to him had that estate remained subsisting.

- (3) Where immediately after the commencement of this Act any person is entitled, subject or not to the payment of the cost of tracing the title and of conveyance, to require any legal estate (not vested in trustees for sale) to be conveyed to or otherwise vested in him, such legal estate shall, by virtue of this Part of this Schedule, vest in manner hereinafter provided.

This paragraph shall, without prejudice to any claim in respect of fines, fees, and other customary payments, apply to a person who, under a surrender or any disposition having the effect of a surrender, or under a covenant to surrender or otherwise, was, immediately before the commencement of this Act, entitled to require a legal customary estate of inheritance to be vested in him, or who, immediately after such commencement becomes entitled to enfranchised land.

- (4) Any person who, immediately after the commencement of this Act, is entitled to an equitable interest capable of subsisting as a legal estate which has priority over any legal estate in the same land, shall be deemed to be entitled for the foregoing purposes to require a legal estate to be vested in him for an interest of a like nature not exceeding in extent or duration the equitable interest:

Provided that this paragraph shall not—

- (a) apply where the equitable interest is capable of being overreached by virtue of a subsisting trust for sale or a settlement;
 - (b) operate to prevent such person from acquiring any other legal estate under this Part of this Schedule to which he may be entitled.
- (5) For the purposes of this Part of this Schedule a tenant for life, statutory owner or personal representative, shall be deemed to be entitled to require to be vested in him any legal estate in settled land (whether or not vested in the Crown) which he is, by the Settled Land Acts, given power to convey.
- (6) Under the provisions of this Part of this Schedule the legal estate affected (namely, any estate which a person is entitled to require to be vested in him as aforesaid) shall vest as follows :—
- (a) Where at the commencement of this Act land is subject to a mortgage (not being an equitable charge unsecured by any estate), the legal estate affected shall vest in accordance with the provisions relating to mortgages contained in this Act;
 - (b) Where the land is at the commencement or by virtue of this Act or any Act coming into operation at the same time subject or is by virtue of any statute made subject to a trust for sale, the legal estate affected shall vest in the trustees for sale (including personal representatives holding land on trust for sale) but subject to any mortgage term subsisting or created by this Act;
 - (c) Where at the commencement of this Act or by virtue of any statute coming into operation at the same time the land is settled land, the legal estate affected shall vest in the tenant for life or statutory owner entitled under the Settled Land Acts, to require a vesting deed to be executed in his favour or in the personal representative (if any) in whom the land may be vested or the Public Trustee, as

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the case may require, but subject to any mortgage term subsisting or created by this Act;

- (d) In any case to which the foregoing sub-paragraphs (a), (b) and (c) do not apply the legal estate affected shall vest in the person of full age who, immediately after the commencement of this Act, is entitled (subject or not to the payment of costs and any customary payments) to require the legal estate to be vested in him, but subject to any mortgage term subsisting or created by this Act.

(7) Nothing in this Part of this Schedule shall operate—

- (a) To vest in a mortgagee of a term of years absolute any nominal leasehold reversion, which is held in trust for him subject to redemption; or
- (b) To vest in a mortgagee any legal estate except a term of years absolute; or
- (c) To vest in a person entitled to a leasehold interest, as respects such interest, any legal estate except a term of years absolute; or
- (d) To vest in a person entitled to a rentcharge (either perpetual or held for a term of years absolute) as respects such rentcharge any legal estate except a legal estate in the rentcharge; or
- (e) To vest in a person entitled to an easement, right or privilege with reference thereto, any legal estate except a legal estate in the easement, right or privilege; or
- (f) To vest any legal estate in a person for an undivided share; or
- (g) To vest any legal estate in an infant; or
- (h) To affect prejudicially the priority of any mortgage or other incumbrance or interest subsisting at the commencement of this Act; or
- (i) To render invalid any limitation or trust which would have been capable of taking effect as an equitable limitation or trust; or
- (j) To vest in a purchaser or his personal representatives any legal estate which he has contracted to acquire and in regard to which a contract (including an agreement to create a legal mortgage) is pending at the commencement of this Act, although the consideration may have been paid or satisfied and the title accepted, or to render unnecessary the conveyance of such estate.
- (k) To vest in the managing trustees or committee of management of a charity any legal estate vested in the Official Trustee of Charity Lands.

(8) Any legal estate acquired by virtue of this Part of this Schedule shall be held upon the trusts and subject to the powers, provisions, rents, covenants, conditions, rights of redemption (as respects terms of years absolute) and other rights, burdens and obligations (if any) upon or subject to which the estate acquired ought to be held.

(9) No stamp duty shall become payable by reason only of any vesting, surrender or release effected by this Act.”

Legal estates of infants.

39 The following provisions shall be substituted for paragraph 2 of the Sixth Schedule to the principal Act :—

“(1) Where immediately before the commencement of this Act a legal estate in land is vested in one or more infants beneficially, or where immediately after the commencement of this Act a legal estate in land would by virtue of this Act have become vested in one or more infants beneficially if he or they had been of full age, the legal estate shall vest in the manner provided by the Settled Land Acts.

(2) Where immediately before the commencement of this Act a legal estate in land is vested in an infant jointly with one or more other persons of full age beneficially, the legal estate shall by virtue of this Act vest in that other person or those other persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale:

Provided that if by virtue of this sub-paragraph the legal estate shall become vested in one person as trustee then if no other person is able and willing to do so the parents or parent or testamentary or other guardian of the infant, if respectively able and willing to act (in the order named), may and at the request of any person interested shall (subject to the costs being provided for) by writing appoint an additional trustee and thereupon by virtue of this Act the legal estate shall vest in the additional trustee and existing trustee as joint tenants.

(3) Where, immediately before the commencement of this Act, a legal estate in land is vested solely in an infant as a personal representative, or a trustee of a settlement, or on trust for sale or on any other trust, or by way of mortgage, or where immediately after the commencement of this Act a legal estate in land would by virtue of any provision of this Act or otherwise have been so vested if the infant were of full age, the legal estate and the mortgage debt (if any) and interest thereon shall, by virtue of this Act, vest in the Public Trustee, pending the appointment of trustees as hereinafter provided—

- (a) as to the land, upon the trusts, and subject to the equities affecting the same (but in the case of a mortgage estate for a term of years absolute in accordance with this Act); and
- (b) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein:

Provided that—

- (i) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act by or on behalf of the persons interested in the land or the income thereof, or in the mortgage debt or interest thereon (as the case may be), which request may be made on behalf of the infant by his parents or parent or testamentary or other guardian (in the order named), and those persons may, in the order aforesaid (if no other person is able and willing to do so) appoint new trustees in the place of the Public Trustee and

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thereupon by virtue of this Act the land or term and mortgage money shall vest in the trustees so appointed upon the trusts and subject to the equities aforesaid : Provided that the Public Trustee may, before he accepts the trust, but subject to the payment of his costs, convey to a person of full age who becomes entitled :

- (ii) After the Public Trustee has been so requested to act and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent:
 - (iii) Any person interested in the land or the income thereof, or in the mortgage debt or in the interest thereon (as the case may be), may, at any time during the minority, apply to the court for the appointment of trustees of the trust, and the court may make such order as it thinks fit, and if thereby new trustees are appointed the legal estate (but in the case of a mortgage estate only for a term of years absolute as aforesaid) and the mortgage debt (if any) and interest shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts and subject to the equities aforesaid :
 - (iv) Neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon :
 - (v) The vesting in the Public Trustee of a legal estate or a mortgage debt by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.
- (4) Where, immediately before the commencement of this Act, a legal estate in land is vested in two or more persons jointly as personal representatives, trustees, or mortgagees, and anyone of them is an infant, or where immediately after the commencement of this Act a legal estate in land would, by virtue of this Act, or otherwise have been so vested if the infant were of full age, the legal estate in the land with the mortgage debt (if any) and the interest thereon shall, by virtue of this Act, vest in the other person or persons of full age—
- (a) as to the legal estate, upon the trusts and subject to the equities affecting the same (but in the case of a mortgage estate only for a term of years absolute as aforesaid), and
 - (b) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein;

but neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon :

Provided that if, by virtue of this sub-paragraph, the legal estate and mortgage debt (if any) become vested in a sole trustee, then, if no other person is able and willing to do so, the parents or parent, testamentary or other guardian of the infant (in the order named) may, and at the request of any person interested shall (subject to the costs being provided for) by writing appoint a new trustee in place of the infant, and thereupon by

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virtue of this Act the legal estate and mortgage money shall vest in the new and continuing trustees upon the trusts and subject to the equities aforesaid.

- (5) The foregoing provisions shall not affect the estate or powers of an administrator *durante minore aetate*, nor, where there is a tenant for life of full age or a statutory owner of settled land, operate to vest the legal estate therein in the Public Trustee.”

Undivided shares.

- 40 (1) The vesting in the Public Trustee of a legal estate by virtue of the Third Schedule to the principal Act shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.
- (2) The provisions of the principal Act respecting undivided shares and joint ownership shall bind the Crown.

Tenancies by entireties.

- 41 Sub-paragraph (4) of paragraph 3 of the Third Schedule to the principal Act shall have effect without prejudice to any beneficial interest.

Freehold and leasehold mortgages.

- 42 Paragraphs 1 and 2 of the Second Schedule to the principal Act shall not affect priorities.

FORMS

Conveyance on sale by mortgagees.

- 43 The Ninth Schedule to the principal Act shall have effect as if the following form were included therein :—
“CONVEYANCE ON SALE BY MORTGAGEES.

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“ This Conveyance is made [&c.] between *A.* of [&c.] and *B.* of [&c.] (hereinafter called the Vendors) of the one part and *C.* of [&c.] (hereinafter called the Purchaser) of the other part [*Recite the Legal Charge or the Mortgage, with or without a deed converting the Mortgage into a legal charge and the agreement for sale.*].

“ Now in consideration of the sum of £ paid by the Purchaser to the Vendors (the receipt, &c.) this deed witnesseth as follows :—

“ 1. The Vendors as Mortgagees in exercise of the power for this purpose conferred on them by statute, and of all other powers hereby convey unto the Purchaser All Those, &c.

“ To Hold unto the Purchaser [in fee simple] discharged from all right of redemption and claims under the recited Legal Charge [Mortgage].

“ 2. [*Add any necessary acknowledgments as to documents retained and any other special provisions.*]

“ In witness &c.”

FOURTH SCHEDULE

SETTLED LAND

PART I

AMENDMENTS

Meaning of "settlement".

1 The following definition shall be substituted for the definition of settlement in subsections (1) and (2) of section two of the Act of 1882 :—

“(1) Any deed, will, agreement for a settlement, or other agreement, Act of Parliament, or other instrument, or any number of instruments, whether made or passed before or after, or partly before and partly after, the commencement of this Act, under or by virtue of which instrument or instruments any land, after the commencement of this Act, stands for the time being—

- (i) limited in trust for any persons by way of succession; or
- (ii) limited in trust for any person in possession—
 - (a) for an entailed interest whether or not capable of being barred or defeated;
 - (b) for an estate in fee simple or for a term of years absolute subject to an executory limitation, gift, or disposition over on failure of his issue or in any other event;
 - (c) for a base or determinable fee or any corresponding interest in leasehold land;
 - (d) being an infant, for an estate in fee simple or for a term of years absolute; or

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- (iii) limited in trust for any person for an estate in fee simple or for a term of years absolute contingently on the happening of any event; or
- (iv) limited to or in trust for a married woman of full age in possession for an estate in fee simple or for a term of years absolute with a restraint on anticipation; or
- (v) charged, whether voluntarily or in consideration of marriage or by way of family arrangement, and whether immediately or after an interval, with the payment of any rentcharge for the life of any person, or any less period, or of any capital, annual, or periodical sums for the portions, advancement, maintenance, or otherwise for the benefit of any persons (with or without any term of years for securing or raising the same);

creates or is for the purposes of this Act a settlement and is in this Act referred to as a settlement, or as the settlement, as the case requires:

Provided that where land is the subject of a compound settlement, references in this Act to the settlement shall be construed as meaning such compound settlement, unless the context otherwise requires.

- (2) Where an infant is beneficially entitled to land for an estate in fee simple or for a term of years absolute and by reason of an intestacy or otherwise there is no instrument under which the interest of the infant arises or is acquired, a settlement shall be deemed to have been made by the intestate, or by the person whose interest the infant has acquired.
- (3) An infant shall be deemed to be entitled in possession notwithstanding any subsisting right of dower (not assigned by metes and bounds) affecting the land; and such right of dower shall be deemed an interest comprised in the subject of the settlement, and coming to the dowress under or by virtue of the settlement:

Provided that where dower has been assigned by metes and bounds the letters of administration or probate granted in respect of the estate of the husband of the dowress shall be deemed the settlement.

- (4) An estate or interest not disposed of by a settlement, and remaining in or reverting to the settlor, or any person deriving title under him, is for the purposes of this Act an estate or interest comprised in the subject of the settlement, and coming to the settlor or such person under or by virtue Of the settlement.
- (5) Where—
 - (a) a settlement creates an entailed interest which is incapable of being barred or defeated, or a base or determinable fee (whether or not the reversion or right of reverter is in the Crown) or any corresponding interest in leasehold land; or
 - (b) the subject of a settlement is an entailed interest, or a base or determinable fee (whether or not the reversion or right of reverter is in the Crown) or any corresponding interest in leasehold land;

the reversion or right of reverter upon the cesser of the interest so created or settled shall be deemed to be an interest comprised in the subject of the settlement, and limited by the settlement.

This subsection and the last preceding subsection bind the Crown.”

Acquisition of land to be settled.

- 2 (1) The following provisions shall be substituted for sub-paragraphs (2) to (7) of paragraph 2 of the Fifth Schedule to the principal Act relating to the procedure on the acquisition of land, namely :—

“(1) 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 or statutory owner, and such conveyance or grant is in this Act referred to as a subsidiary vesting deed:

Provided that where an instrument is subsisting at the commencement of this Act, or is made or comes into operation after such commencement, by virtue of which any money or securities are liable under the Settled Land Acts, or under a trust or direction contained in such instrument, to be invested in the purchase of land to be conveyed so as to become settled land, but at the commencement of this Act or when such instrument is made or comes into operation after such commencement (as the case may be), there is no land in respect of which a principal vesting deed is capable of being executed, the first deed after the commencement of this Act by which any land is acquired as aforesaid shall be a principal vesting deed and shall be framed accordingly.

- (2) A subsidiary vesting deed executed on the acquisition of land to be made subject to a settlement shall contain the following statements and particulars, namely :—
- (a) Particulars of the last or only principal vesting instrument affecting land subject to the settlement:
 - (b) A statement that the land conveyed is to be held upon and subject to the same trusts and powers as the land comprised in such last or only principal vesting instrument:
 - (c) The names of the persons who are the trustees of the settlement:
 - (d) The name of any person for the time being entitled to appoint new trustees of the settlement.
- (3) A subsidiary vesting deed reserving a rentcharge on a grant of settled land shall contain the following statements and particulars :—
- (a) A statement 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 or only principal vesting instrument affecting such land.
- (4) A subsidiary vesting deed 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.
- (5) The acquisition of the land shall not operate to increase or multiply charges or powers of charging.”

Meaning of "tenant for life."

3 The following definition shall be substituted for the definition of tenant for life in subsections (5), (6) and (7) of section two of the Act of 1882:—

- “(5) The person of full age who is for the time being, under a settlement, beneficially entitled to possession of settled land for his life is for the purposes of this Act the tenant for life of that land, and the tenant for life under that settlement.
- (6) If, in any case, there are two or more persons of full age so entitled as joint tenants, they together constitute the tenant for life for the purposes of this Act.
- (7) If in any case there are two or more persons so entitled as joint tenants and they are not all of full age, such one or more of them as is or are for the time being of full age is or (if more than one) together constitute the tenant for life for the purposes of this Act, but this subsection does not affect the beneficial interests of such of them as are not for the time being of full age.
- (7A) A person being tenant for life within the foregoing definitions shall be deemed to be such notwithstanding that, under the settlement or otherwise, the settled land, or his estate or interest therein, is incumbered or charged in any manner or to any extent, and notwithstanding any assignment by operation of law or otherwise of his estate or interest under the settlement, whether before or after it came into possession, other than an assurance which extinguishes such estate or interest.”

Procedure on appointment or discharge of a trustee.

4 The following provisions as to procedure on the appointment or discharge of a trustee of the settlement shall have effect as if inserted at the end of the Fifth Schedule to the principal Act :—

- “14 (1) Whenever a new trustee for the purposes of the Settled Land Acts is appointed of a trust instrument, or a trustee thereof for the purposes aforesaid is discharged from the trust without a new trustee being appointed, a deed shall be executed supplemental to the last or only principal vesting instrument containing a declaration that the persons therein named, being the persons who after such appointment or discharge (as the case may be) are the trustees of the trust instrument for the purposes aforesaid are the trustees of the settlement for those purposes; and a memorandum shall be endorsed on or annexed to the last or only principal vesting instrument in accordance with the Trustee Act, 1893, as amended.
- (2) Such deed shall, if the trustee was appointed or discharged by the court, be executed by such person - as the court may direct, and, in any other case, shall be executed by—
- (i) the person (if any) named in such principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement, or if no person is so named, or such person is dead or unable or unwilling to act, the persons who if such principal vesting instrument had been the only instrument constituting

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the settlement would have had power to appoint new trustees thereof;

(ii) the persons named in the deed of declaration as the trustees of the settlement; and

(iii) any trustee who is discharged as aforesaid or retires.

(3) A statement contained in any such deed of declaration ' as mentioned in this section to the effect that the person named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement is unable or unwilling to act, or that a trustee has remained out of the United Kingdom for more than twelve months, or refuses or is unfit to act, or is incapable of acting, shall in favour of a purchaser of a legal estate, be conclusive evidence of the matter stated.”

Exchanges.

5 The following paragraph shall be substituted for paragraph (iii) of section three of the Act of 1882 :—

“(iii) May make an exchange of the settled land, or any part thereof, or of any easement, right, or privilege of any kind, whether or not newly created, over or in relation to the settled land, or any part thereof, for other land, or for any easement, right or privilege of any kind, whether or not newly created, over or in relation to other land, including an exchange in consideration of money paid for equality of exchange.”

Sales.

6 (1) At the end of the first paragraph of subsection (1) of section forty-three of the principal Act, the words " or an adequate part thereof " shall be inserted.

(2) The following proviso shall be inserted at the end of the said subsection (1) :—

“Provided that, unless the part of the terminable rent attributable to interest varies according to the amount of principal repaid, the trustees of the settlement shall, during the subsistence of the rent, accumulate the income of the said capital money in the way of compound interest by investing it and the resulting income thereof in securities authorised for the investment of capital money and add the accumulations to capital.”

Dedication of roads.

7 The following paragraph shall be inserted at the end of paragraph (b) of subsection (2) of section sixty of the principal Act :—

“(c) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway.”

Compromises and licences.

8 (1) The following provision shall be inserted at the end of subsection (7) of section forty-five of the principal Act:—

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“And in any case where section seventy-eight aforesaid has effect as amended and re-enacted by Part II of the Mines (Working Facilities and Support) Act, 1923, a tenant for life may make any agreement authorised by section eighty-five a of the Railway Clauses Consolidation Act, 1845, as enacted in the said Part II.”

(2) The following subsection shall be inserted at the end of section forty-five of the principal Act:—

“(10) Where land is or has been disposed of subject to any covenant requiring the licence, consent, or approval of the covenantee or his successors in title as to—

- (a) the user of the land in any manner; or
- (b) the erection construction or alteration of or addition to buildings or works of any description on the land; or
- (c) the plans or elevations of any proposed buildings or other works on the land; or
- (d) any other act, matter, or thing relating to the land, or any buildings or works thereon; or
- (e) any assignment, underletting or parting with the possession of all or any part of the property comprised in any lease affecting the settled land;

and the covenant enures for the benefit of settled land (including, where the disposition is a lease, the reversion expectant on the determination thereof) the licence, consent or approval may be given by the tenant for life of the settled land affected.”

Bankruptcy.

9 The following paragraph shall be inserted at the end of the Fifth Schedule to the principal Act:—

“14 The legal estate in settled land shall not vest in the trustee in bankruptcy of an estate owner unless and until the estate owner becomes absolutely and beneficially entitled to the settled land free from all limitations, powers, and charges taking effect under the settlement.”

Purchases of life interests.

10 Sub-paragraph (3) of paragraph 10 of the Fifth Schedule to the principal Act (relating to the acquisition of the beneficial interest of a tenant for life) shall take effect subject to the following provisions :—

“Provided that—

- (a) where the conveyance or dealing is effected after the commencement of this Act, the purchaser shall not be entitled to the possession of the documents of title relating to the settled land, but shall have the same rights with respect thereto as if the tenant for life had given to him a statutory acknowledgment of his right to production and delivery of copies thereof, and a statutory undertaking for the safe custody thereof; and

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- (b) the tenant for life shall not deliver any such -documents to a purchaser of his beneficial interest who is not also a purchaser of the whole of the settled land to which such documents relate.””

Small dwellings.

- 11 Section eighteen of the Act of 1890 shall have effect as if the words " who earn their livelihood by wages or salaries " were omitted.

PART II

PROVISIONS FACILITATING CONSOLIDATION OR THE LAW RELATING TO SETTLED LAND

Authorised method of settling.

- 1 The provisions in paragraph 1 of the Fifth Schedule to the principal Act relating to the method of settling land inter vivos shall be read as follows—

“(1) Every settlement of a legal estate in land inter vivos shall (save as in this Act otherwise provided) be effected by two deeds, namely, a vesting deed and a trust instrument, and if made in any other way shall not operate to transfer or create a legal estate.

- (2) By the vesting deed the land shall be conveyed to the tenant for life or statutory owner (and if more than one as joint tenants) for the legal estate the subject of the intended settlement:

Provided that, where such legal estate is already vested in the tenant for life or statutory owner, it shall be sufficient, without any other conveyance, if the vesting deed declares that the land is vested in him for that estate.

- (3) The trust instrument shall—

- (a) declare the trusts affecting the settled land;
- (b) appoint or constitute trustees of the settlement ;
- (c) contain the power (if any) to appoint new trustees of the settlement;
- (d) set out, either expressly or by reference, any powers intended to be conferred by the settlement in extension of those conferred by this Act; and
- (e) bear any ad valorem stamp duty which may be payable (whether by virtue of the vesting deed or otherwise) in respect of the settlement.”

Contents of vesting deeds.

- 2 The provisions in paragraph 2 of the same Schedule relating to the contents of vesting deeds shall be read as follows:—

“(1) Every vesting deed for giving effect to a settlement or for conveying settled land to a tenant for life or statutory owner during the subsistence

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of the settlement (in this Act referred to as a principal vesting deed) shall contain the following statements and particulars, namely :—

- (a) A description, either specific or general, of the settled land :
 - (b) A statement that the settled land is vested in the person or persons to whom it is conveyed or in whom it is declared to be vested upon the trusts from time to time affecting the settled land :
 - (c) The names of the persons who are the trustees of the settlement:
 - (d) Any additional or larger powers conferred by the trust instrument relating to the settled land which by virtue of this Act operate and are exercisable as if conferred by this Act on a tenant for life :
 - (e) The name of any person for the time being entitled under the trust instrument to appoint new trustees of the settlement.
- (2) The statements or particulars required by this paragraph may be incorporated by reference to an existing vesting instrument, and where there is a settlement subsisting at the commencement of this Act, by reference to such settlement, and to any instrument whereby land has been conveyed to the uses or upon the trusts of such settlement, but not (save as last aforesaid) by reference to a trust instrument nor by reference to a disentailing deed.
- (3) A principal vesting deed 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.”

Procedure on change of ownership.

- 3 The provisions in paragraph 3 of the same Schedule relating to procedure on change of ownership shall be read as follows:—

- “(1) If, on the death of a tenant for life or statutory owner, or of the survivor of two or more tenants for life or statutory owners, in whom the settled land was vested, the land remains settled land, his personal representatives shall hold the settled land on trust, if and when required so to do, to convey the same to the person who, under the trust instrument, or by virtue of this Act, becomes the tenant for life or statutory owner and, if more than one, as joint tenants.
- (2) If a person by reason of attaining full age becomes a tenant for life for the purposes of the Settled Land Acts of settled land, he shall be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the land to him.
- (3) If a person who, when of full age, will together with another person or other persons constitute the tenant for life for the purposes of the Settled Land Acts of settled land attains that age, he shall be entitled to require the tenant for life, trustees of the settlement, personal representatives or other persons in whom the settled land is vested to convey the land to him and the other person or persons who together with him constitute the tenant for life as joint tenants.
- (4) If by reason of forfeiture, surrender, or otherwise the estate owner of any settled land ceases to have the statutory powers of a tenant for life, and the land remains settled land; he shall be bound forthwith to convey the

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settled land to the person who under the trust instrument, or by virtue of the Settled Land Acts, becomes the tenant for life or statutory owner and, if more than one, as joint tenants.

- (5) If any person of full age becomes absolutely entitled to the settled land (whether beneficially, or as personal representative, or as trustee for sale, or otherwise free from all limitations, powers, and charges taking effect under the settlement, he shall be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the land to him, and if more persons than one being of full age become so entitled to the settled land they shall be entitled to require such persons as aforesaid to convey the land to them as joint tenants.”

Mode and costs of conveyance.

- 4 The provisions in paragraphs 3 and 4 of the same Schedule relating to conveyances for giving effect to settlements by will and on change of ownership shall be read as follows :—

- “(1) A conveyance by personal representatives under the aforesaid provisions may be made by an assent in writing signed by them which shall operate as a conveyance.
- (2) Every conveyance under the aforesaid provision shall be made at the cost of the trust estate.
- (3) The obligations to convey settled land imposed by the aforesaid provisions are subject and without prejudice—
- (a) where the settlement is created by a will, to the rights and powers of the personal representatives for purposes of administration; and
 - (b) in any case to the person on whom the obligation is imposed being satisfied that provision has been or will be made for the payment of any unpaid death duties in respect of the land or any interest therein for which he is accountable, and any interest and costs in respect of such duties, or that he is otherwise effectually indemnified against such duties, interest and costs.
- (4) Where the land is or remains settled land a conveyance under either of the aforesaid provisions shall—
- (a) if by deed, be a principal vesting deed; and
 - (b) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.
- (5) Nothing contained in the aforesaid provisions affects the right of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under those provisions as may be required for giving effect to the obligations imposed on them by statute.
- (6) A conveyance under the aforesaid provisions, if made by deed, may contain a reservation to the person conveying of a term of years absolute in the land conveyed upon trusts for indemnifying him against any unpaid

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death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.

- (7) Nothing contained in the aforesaid provisions affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under either of those sections.”

Trust instruments.

- 5 The provisions in paragraphs 4, 8 and 9 of the same Schedule relating to trust instruments shall be read as follows :—

“(1) Each of the following settlements or instruments shall for the purposes of this Act be deemed to be a trust instrument, and any reference to a trust instrument contained in this Act shall apply thereto, namely :—

- (i) An instrument executed, or, in case of a will, coming into operation, after the commencement of this Act which by virtue of this Act is deemed to be a settlement;
- (ii) A settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act;
- (iii) An instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act, and does not comply with the requirements of this Act with respect to the method of effecting such a settlement; and
- (iv) A settlement made after the commencement of this Act (including a settlement by the will of a person who dies after such commencement) of any of the following interests—
 - (a) an equitable interest in land which is capable, when in possession, of subsisting at law ; or
 - (b) an entailed interest; or
 - (c) a base or determinable fee or any corresponding interest in leasehold land;

but only if and when the interest settled takes effect free from all equitable interests and powers under every prior settlement (if any).

- (2) As soon as practicable after a settlement or instrument which, for the purposes of this Act, is deemed to be a trust instrument takes effect as such, the trustees of the settlement may, and on the request of the tenant for life or statutory owner shall, execute a principal vesting deed (containing the proper statements and particulars) declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named (being the tenant for life or statutory owner, and including themselves if they are the statutory owners), and such deed shall (unless the legal estate is already so vested) operate to convey or vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.
- (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

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court by the tenant for life or statutory owner, or may be made by any other person interested, for the appointment of such trustees.

- (4) The provisions of the last preceding section with reference to a conveyance shall apply, so far as the same are applicable, to a principal vesting deed under this section.”

Agreement for a settlement.

- 6 The following sub-paragraph shall be substituted for sub-paragraph (2) of paragraph 1 of the same Schedule to the principal Act:—

“(2) A contract made or other liability created or arising after the commencement of this Act for the settlement of land—

- (i) by or on the part of an estate owner; or
- (ii) by a person entitled to—
 - (a) an equitable interest which is capable when in possession of subsisting at law; or
 - (b) an entailed interest; or
 - (c) a base or determinable fee or a corresponding interest in leasehold land;

shall, but in cases under paragraph (ii) only if and when the interest of the person entitled takes effect free from all equitable interests and powers under every prior settlement, if any, be deemed an estate contract within the meaning of the Land Charges Acts, and may be registered as a land charge accordingly, and effect shall be given thereto by a vesting deed and a trust instrument in accordance with this Act.”

Vesting orders.

- 7 The provisions, in paragraphs 7 and 9 of the same Schedule to the principal Act as to vesting orders shall be read as follows:—

“(1) If—

- (a) any person who is bound to execute a conveyance, vesting deed or vesting assent, or in whom settled land is wrongly vested refuses or neglects to execute the requisite conveyance or vesting deed or vesting assent within one month after demand in writing ; or
- (b) such person is outside the United Kingdom, or cannot be found, or it is not known whether he is alive or dead; or
- (c) for any reason the court is satisfied that the conveyance or vesting deed or vesting 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 or statutory owner or person (if any) of full age absolutely entitled (whether beneficially or as personal representative or trustee for sale or otherwise), and (if the land remains settled land) the provisions of this Act relating to a principal vesting deed or a subsidiary vesting deed (as the case may require) shall apply to any order so made which shall contain the like statements and particulars.

(2) No stamp duty shall be payable in respect of a vesting order made in place of a vesting or other assent.”

Restrictions on dispositions before vesting instrument is made.

8 The restrictions imposed by the same Schedule to the principal Act on dispositions until a vesting instrument is made shall not affect a personal representative and shall not apply to dispositions which a tenant for life has power to make in right of his equitable interests or powers under a trust instrument.

Enforcement of equitable interests.

9 The following provisions shall be substituted for the provisions of Part II. of the First Schedule to the principal Act relating to enforcement of equitable interests and powers as respects settled land :—

“(1) All equitable interests and powers in or over settled land (whether created before or after the date of any vesting instrument affecting the legal estate) shall be enforceable against the estate owner in whom the settled land is vested (but in the case of personal representatives without prejudice to their rights and powers for purposes of administration) in manner following (that is to say):—

- (i) The estate owner 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 of which he has notice according to their respective priorities:
- (ii) Where 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, by reason of a right of reverter, statutory or otherwise, or an equitable right of entry taking effect, or on the ground that his interest ought no longer to be capable of being over-reached under the powers of the Settled Land Acts, the estate owner shall be bound, if so requested in writing, to transfer or create such legal estate as may be required for giving legal effect to the rights of the person so entitled:
- (iii) Where—
 - (a) any principal sum is required to be raised on the security of the settled land, by virtue of any trust, or by reason of the exercise of an equitable power affecting the settled land, or by any person or persons who under the settlement is or are entitled or together entitled to or has or have a general power of appointment over the settled land, whether subject to any equitable charges or powers of charging subsisting under the settlement or not; or
 - (b) the settled land is subject to any equitable charge for securing money actually raised and affecting the whole estate the subject of the settlement;

the estate owner shall be bound, if so requested in writing, to create such legal estate or charge by way of legal mortgage as

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may be required for raising the money or giving legal effect to the equitable charge :

Provided that, so long as the settlement remains subsisting, any legal estate or charge by way of legal mortgage so created shall take effect and shall be expressed to take effect subject to any equitable charges or powers of charging subsisting under the settlement which have priority to the interests or powers of the person or persons by or on behalf of whom the money is required to be raised, or legal effect is required to be given to the equitable charge unless the persons entitled to such prior charges or powers consent in writing to the same being postponed, but it shall not be necessary for such consent to be expressed in the instrument creating such legal estate or charge by way of legal mortgage.

- (2) Where a mortgage or charge is expressed to be made by an estate owner pursuant to this paragraph, then, in favour of the mortgagee or chargee and persons deriving title under him, the same shall take effect in priority to all the trusts of the settlement and all equitable interests and powers subsisting or to arise under the settlement, except those to which it is expressly made subject, and shall so take effect, whether the mortgagee or chargee has notice of any such trusts, interests, or powers, or not; and the mortgagee or chargee shall not be concerned to see that a case had arisen to authorise the mortgage or charge, or that no more money than was wanted was raised.
- (3) Nothing contained in sub-paragraph (1) (iii) of this paragraph shall affect the power conferred by the Settled Land Acts on a tenant for life of raising money by mortgage, or of directing capital money to be applied in discharge of incumbrances.
- (4) Effect may be given by means of a legal mortgage, to an agreement for a mortgage, or a charge or lien, whether or not arising by operation of law, if the agreement charge or lien ought to have priority over the settlement.
- (5) Save as hereinbefore expressly provided, no legal estate shall, so long as the settlement is subsisting, be transferred or created by the estate owner for giving effect to any equitable interest or power under the settlement.
- (6) If a question arises or a doubt is entertained whether any and what legal estate ought to be transferred or created pursuant to this paragraph an application may be made to the court for directions as hereinafter provided.
- (7) If an estate owner refuses or neglects for one month after demand in writing to transfer or create any such legal estate, or if by reason of his 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 the requisite legal estate.
- (8) This paragraph does not affect a purchaser of a legal estate taking free from any equitable interest or power.”

Discharge on termination of settlement.

10 The provisions in paragraph 3 of the Fifth Schedule to the principal Act relating to discharges on the termination of a settlement shall be read as follows :—

“(1) Where the estate owner of any settled land holds the same free from all equitable interests and powers under a trust instrument, the persons who in the last or only principal vesting instrument or the last or only endorsement on or annex thereto are declared to be the trustees of the settlement or the survivors of them shall be bound (save as hereinafter mentioned) to execute (at the cost of the trust estate) a deed declaring that they are discharged from the trust so far as regards that land :

Provided that if the trustees have notice of any derivative settlement, trust for sale, or equitable charge, affecting such land, they shall not execute a deed of discharge until—

- (a) in the case of a derivative settlement, or trust for sale, a vesting instrument or a conveyance has been executed or made for giving effect thereto; and
- (b) in the case of an equitable charge, they are satisfied that it is or will be secured by a legal mortgage, or is protected by registration as a land charge, or by deposit of the documents of title, or that the owner thereof consents to such execution.

Where the land is affected by a derivative settlement or trust for sale, the deed of discharge shall contain a statement that the land is settled land by virtue of such vesting instrument as aforesaid, and the trust instrument therein referred to, or is held on trust for sale by virtue of such conveyance as aforesaid, as the case may require.

(2) If, in the circumstances mentioned in sub-paragraph (1) of this paragraph and when the conditions therein mentioned have been complied with, the trustees of a settlement, on being requested to execute a deed of discharge—

- (a) by the estate owner ; or
- (b) by a person interested under, or by the trustees of, a derivative settlement; or
- (c) by the trustees of a conveyance on trust for sale;

refuse to do so, or if for any reason the discharge cannot be effected without undue delay or expense, the estate owner, person interested, or trustees may apply to the court for an order discharging the first-mentioned trustees, as respects the whole or any part of the settled land and the court may make such order as it may think fit.

(3) Where a deed or order of discharge contains no statement to the contrary, a purchaser of a legal estate in the land to which such deed or order relates shall be entitled to assume that such land has ceased to be settled land, and is not subject to any trust for sale.”

Absolute owners having the powers of a tenant for life.

11 The following subsection shall be substituted for sub-section (2) of section fifty-three of the principal Act:—

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- “(2) (a) Where a person of full age is beneficially entitled in possession to a legal estate subject to any equitable interests or powers, then for the purpose of overreaching such interests or powers, he may, notwithstanding any stipulation to the contrary, by deed (which shall have effect as a principal vesting deed within the meaning of this Act) declare that the legal estate is vested in him on trust to give effect to all equitable interests and powers affecting the same, and that deed shall be executed by two or more individuals (approved or appointed by the court) or a trust corporation who shall be stated to be the trustees of the settlement for the purposes of the Settled Land Acts.

Thereupon, so long as any of the equitable interests, and powers are subsisting, the following provisions shall have effect:—

- (i) The person so entitled as aforesaid, and each of his successors in title being an estate owner, shall have the powers of a tenant for life and the land shall be deemed settled land;
- (ii) The instrument, if any, under which his estate arises or is acquired, and the instrument, if any, under which the equitable interests or powers are subsisting or capable, of taking effect shall be deemed to be the trust instrument:

Provided that where there is no such instrument as last aforesaid then a deed (which shall take effect as a trust instrument) shall be executed contemporaneously with the vesting deed, and shall declare the trusts affecting the land;

- (iii) The persons stated in the principal vesting deed to be the trustees of the settlement for the purposes of the Settled Land Acts shall also be the trustees for those purposes of the trust instrument; and
- (iv) Capital money arising on any disposition of the land shall be paid to or by the direction of the trustees of the settlement or into court, and shall be applicable towards discharging or providing for payment in due order of any principal money payable in respect of such interests or charges as are overreached by such disposition, and until so applied shall be invested or applied as capital money under the trust instrument; and the income thereof shall be applied as the income of such capital money, and be liable for keeping down in due order any annual or periodical sum which may be overreached by the disposition.

- (b) The following equitable interests and powers are excepted from the operation of paragraph (a) of this sub-section, namely—
 - (i) An equitable interest protected by a deposit of documents relating to the legal estate affected;
 - (ii) The benefit of a covenant or agreement restrictive of the user of land;
 - (iii) An easement, liberty or privilege over or affecting land and being merely an equitable interest;

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- (iv) The benefit of a contract to convey or create a legal estate (including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption, or any other like right);
- (v) Any equitable interest protected by registration under the Land Charges Acts, other than—
 - (a) an annuity within the meaning of the Judgments Act, 1855;
 - (b) a limited owner's charge or a general equitable charge within the meaning of the Land Charges Acts.
- (c) Subject to the powers conferred by the Settled Land Acts on a tenant for life nothing contained in this subsection shall deprive an equitable chargee of any of his rights or of his remedies for enforcing those rights.”

Married women.

- 12 (1) The following section shall be substituted for section sixty-one of the Act of 1882 :—
- (1) The foregoing provisions of this Act shall apply to a married woman of full age, whether or not she is entitled to her estate or interest for her separate use or as her separate property, and she, without her husband, may exercise the powers of a tenant for life under this Act.
 - (2) A restraint on anticipation in the settlement shall not prevent the exercise by her of any power under this Act,”

Infants.

- 13 The following section shall be substituted for section fifty-nine of the Act of 1882 as amended :—
- (1) Where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute or would if of full age be a tenant for life or have the powers of a tenant for life over settled land, then, during the minority of such infant—
 - (a) if the settled land is vested in a personal representative, the personal representative, until a principal vesting instrument has been executed pursuant to the provisions of this Act; and
 - (b) in every other case the trustees of the settlement;shall have, in reference to the settled land and capital money, all the powers conferred by this Act, and the settlement on a tenant for life, and on the trustees of the settlement.
 - (2) If the settled land is vested in a personal representative, then, if and when during the minority the infant, if of full age, would have been entitled to have the legal estate in the settled land conveyed to or otherwise vested in him pursuant to the statutory provisions, a principal vesting instrument shall if the trustees of the settlement so require, be executed, at the cost of the trust estate, for vesting the legal estate in themselves and in the meantime the personal representatives shall, during the minority, give effect to the directions of the trustees of the settlement and shall not be concerned with

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the propriety of any conveyance directed to be made by those trustees if the same appears to be a proper conveyance under the powers conferred by this Act, or by the settlement, 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.

- (3) Subsection (2) of this section shall apply whether the infant becomes entitled before or after the commencement of this Act, 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.
- (4) This section shall not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is otherwise made by statute), but shall apply to two or more infants entitled as aforesaid jointly until one of them attains full age.
- (5) This section shall not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of full age, but it shall apply to two or more infants who would if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life, until one of them attains full age.
- (6) Nothing in this section shall affect prejudicially any beneficial interest of an infant.”

Conveyances of legal estates to infants.

14 The provisions of the Sixth Schedule to the principal Act relating to infants as respects settled land shall be read as follows:—

- “(1) A conveyance of a legal estate in land to an infant alone, or to two or more persons jointly both, or all of whom are infants for his or their own benefit shall operate only as an agreement for valuable consideration to execute a settlement by means of a principal vesting deed and a trust instrument in favour of the infant or infants, and in the meantime to hold the land in trust for the infant or infants.
- (2) Nothing in the Settled Land Acts shall prevent an equitable interest in settled land being vested in or transferred to an infant.
- (3) Nothing in the Settled Land Acts affects the powers conferred by the Infant Settlements Act, 1855, provided that a legal estate in land is not vested in an infant.”

Lunatics.

15 The following subsection shall be inserted at the end of section sixty-two of the Act of 1882 :—

- “(2) Orders may be made under this section—

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- (a) either generally or in a particular instance;
- (b) without requiring the estate of the lunatic or defective to be administered in lunacy ;
- (c) by appointing a receiver to act solely in relation to the settled land or in relation to a particular settlement.”

Charitable and public trusts.

16 The following section shall be substituted for section twenty-six of the principal Act:

-
- (1) For the purposes of this section, all land vested or to be vested in trustees on or for charitable, ecclesiastical, or public trusts or purposes shall be deemed to be settled land, and the trustees shall, without constituting them statutory owners, in reference to the land, have all the powers which are by the Settled Land Acts conferred on a tenant for life and on the trustees of the settlement.

In connexion only with the exercise of those powers, and not so as to impose any obligation in respect of or to affect—

- (a) the mode of creation or the administration of such trusts; or
- (b) the appointment or number of trustees of such trusts;

the statute or other instrument creating the trust or under which it is administered shall be deemed the settlement, and the trustees shall be deemed the trustees of the settlement, and, save where the trust is created by a will coming into operation after the commencement of this Act, a separate instrument shall not be deemed necessary for giving effect to the settlement.

Any conveyance of land held on charitable trusts shall state that the land is held on such trusts, and where a purchaser has notice that the land is held on charitable, ecclesiastical or public trusts, he shall be bound to see that any such consents or orders requisite for authorising the transaction have been obtained.

- (2) The said powers shall be exercisable subject to such consents or orders (if any) being obtained as would, if this Act had not been passed, have been requisite if the transaction were being effected under an express power conferred by the instrument creating the trust; and, where the land is vested in the official trustee of charity lands or in any other persons having no powers of management, the said powers shall be exercisable by the managing trustees or committee of management, and the official trustee or other persons aforesaid shall not be liable for giving effect to directions given by the managing trustees or committee of management:

Provided that where—

- (a) a disposition or dealing is to be effected for a nominal price or rent, or for less than the best price or rent that can be reasonably obtained or gratuitously; or
- (b) any interest in land is to be acquired ;

the like consent or order (if any) shall be required in reference to the disposition, dealing or acquisition, as would have been requisite if the intended transaction were a sale.

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- (3) Nothing in this section shall affect the jurisdiction of the court, Charity Commissioners, Board of Education, or other competent authority, in regard to the administration of charitable, ecclesiastical, or public trusts.
- (4) Every assurance of land or of personal estate, within the meaning of section four of the Mortmain and Charitable Uses Act, 1888, or if the charitable uses are declared by a separate instrument, then that instrument shall, in place of the requirements respecting attestation and enrolment prescribed by subsections (6) and (9) of that section, be sent to the offices of the Charity Commissioners within six months after the execution thereof or within such extended period as the said Commissioners may, either before or after the expiration of the six months, in any particular case allow, for the purpose of being recorded in the books of the said Commissioners.

Where the original cannot be produced, an attested or office copy may be sent instead of the original.

This subsection does not apply to registered dispositions of registered land, or to assurances or instruments required by section one hundred and seventeen of the Education Act, 1921, to be sent to the Board of Education, and only applies to instruments executed after the commencement of this Act.

- (5) Where any trustees or the majority of any set of trustees have power to transfer or create any legal estate, the same shall be transferred or created by them in the names and on behalf of the persons (including the official trustee of charity lands) in whom the legal estate is vested.
- (6) This section applies (save as otherwise provided) whether the trust was or is created before or after the commencement of this Act, but does not apply to land to which the Universities and College Estates Acts, 1858 to 1898 (as amended) apply.”

Undivided shares.

17 The provisions of the principal Act (to take effect in regard to the future) as to undivided shares so far as they relate to settled land shall be read as follows :—

- “(1) If and when, after the commencement of this Act, settled land is held in trust for persons entitled in possession under a trust instrument in undivided shares, the trustees of the settlement, if the settled land is not already vested in them, may require the estate owner in whom the settled land is vested (but in the case of a personal representative subject to his rights and powers for purposes of administration), at the cost of the trust estate, to convey the land to them, or assent to the land vesting in them as joint tenants, and in the meantime the land shall be held on the same trusts as would have been applicable thereto if it had been so conveyed to or vested in the trustees.
- (2) If and when the settled land so held in trust in undivided shares is or becomes vested in the trustees of the settlement, the land shall be held by them (subject to any incumbrances affecting the settled land which are secured by a legal mortgage, but freed from any incumbrances affecting the undivided shares or not secured as aforesaid, and from any interests, powers and charges

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subsisting under the trust instrument, which have priority to the trust for the persons entitled to the undivided shares) upon the statutory trusts.

- (3) If the estate owner refuses or neglects for one month after demand in writing to convey the settled land so held in trust in undivided shares in manner aforesaid, or if by reason of his 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 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.
- (4) An undivided share in land shall not be capable of being created except under a trust instrument or as otherwise provided by statute, and shall then only take effect behind a trust for sale.
- (5) Nothing in this section shall affect the priority inter se of any incumbrances whether affecting the entirety of the land or an undivided share.
- (6) For the purposes of this section land held upon the statutory trusts shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same, with power to postpone the sale of the whole or any part thereof, 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 settled land.
- (7) This section binds the Crown.”

Timber and fixtures.

- 18 The following section shall be substituted for section thirteen of the Law of Property Amendment Act, 1859:—

Where on a sale the consideration attributable to any timber or fixtures is by mistake paid to a tenant for life or other person not entitled to receive the same, then, if that person or the purchaser or the persons deriving title under either of them subsequently pay the aforesaid consideration, with such interest, if any, thereon as the court may direct, to the trustees of the settlement or other persons entitled thereto or into court, the court may, on the application of the purchaser or the persons deriving title under him, declare that the disposition is to take effect as if the whole of the consideration had at the date thereof been duly paid to the trustees of the settlement or other persons entitled to receive the same.

The person to whom the consideration is paid by mistake, and his estate and effects, shall remain liable to make good any loss attributable to the mistake.”

Mansion.

- 19 The words " and may accordingly be disposed of in like manner as any other part of the settled land " shall be inserted at the end of section ten of the Settled Land Act, 1890.

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

Heirlooms.

- 20 (1) The following subsection shall be substituted for subsection (1) of section thirty-seven of the Act of 1882 :—

“(1) Where personal chattels are settled so as to devolve with settled land, or to devolve therewith as nearly as may be in accordance with the law or practice in force at the date of the settlement, or are settled together with land, or upon trusts declared by reference to the trusts affecting land, a tenant for life of the land may sell the chattels or any of them.”

- (2) Any reference in any enactment to personal chattels settled as heirlooms shall extend to any chattels to which subsection (1) of section thirty-seven of the Act of 1882, as amended, applies.

Consolidation of securities, &c.

- 21 (1) Subsection (1) of section fifty-nine of the principal Act shall be read as authorising the consolidation of securities.
- (2) The statutory restrictions on the leasing powers of a tenant for life shall not apply in relation to the creation of a mortgage term.

Completion of transactions.

- 22 (1) On a sale, exchange, lease, mortgage, charge, or other disposition, the tenant for life may, as regards land sold, given in exchange, leased, mortgaged, charged, or otherwise disposed of, or intended so to be, or as regards easements or other rights or privileges sold, given in exchange, leased, mortgaged, or otherwise disposed of, or intended so to be, effect the transaction by deed to the extent of the estate or interest vested or declared to be vested in him by the last or only vesting instrument affecting the settled land or for any less estate or interest, in the manner requisite for giving effect to the sale, exchange, lease, mortgage, charge, or other disposition, but so that a mortgage shall be effected by the creation of a term of years absolute in the settled land, or by charge by way of legal mortgage, and not otherwise.
- (2) Such a deed, to the extent and in the manner to and in which it is expressed or intended to operate and can operate under the Settled Land Acts, is effectual to pass the land conveyed, or the easements, rights, privileges or other interests created, discharged from all the limitations, powers, and provisions of the settlement, and from all estates, interests, and charges subsisting or to arise thereunder, but subject to and with the exception of—
- (i) all legal estates and charges by way of legal mortgage which have been conveyed or created for securing money actually raised at the date of the deed; and
 - (ii) all leases and grants at fee-farm rents or otherwise, and all grants of easements, rights of common, or other rights or privileges which before the date of the deed—
 - (a) are granted or made for value in money or money's worth, or agreed so to be, by the tenant for life or statutory owner, or by any of his predecessors in title, or any trustees for them, under the settlement, or under any statutory power, or are otherwise binding on the successors in title of the tenant for life or statutory owner; and

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- (b) are protected by registration under the Land Charges Acts, if capable of registration thereunder.
- (3) Notwithstanding registration under the Land Charges Acts of—
- (a) an annuity within the meaning of the Judgments Act, 1855;
 - (b) a limited owner's charge or a general equitable charge within the meaning of the Land Charges Acts ;
- a disposition under the Settled Land Acts operates to overreach such annuity or charge which shall, according to its priority, take effect as if limited by the settlement.
- (4) Where a lease is by the Settled Land Acts authorised to be made by writing under hand only, such writing shall have the same operation under this section as if it had been a deed.
- (5) The foregoing provisions of this paragraph shall have effect in substitution for section twenty of the Act of 1882.

Application of money held by trustees.

- 23 (1) The words "This paragraph shall apply to costs " and expenses incurred in opposing any such proposed scheme " as aforesaid whether or not a scheme is made;" shall be inserted at the end of subsection (1) (iii) of section sixty-four of the principal Act.
- (2) Where—
- (a) under any instrument coming into operation either before or after the commencement of the principal Act money is in the hands of trustees, and is liable to be laid out in the purchase of land to be made subject to the trusts declared by that instrument; or
 - (b) under any instrument coming into operation after the commencement of the principal Act money or securities or the proceeds of sale of any property is or are held. by trustees on trusts, creating entailed interests therein;
- then, in addition to such powers of dealing therewith as the trustees have independently of the Settled Land Acts, they may, at the option of the tenant for life, invest or apply the money, securities or proceeds as if they were capital money arising under the Settled Land Acts.
- (3) The foregoing provisions of this paragraph shall have effect in substitution for section thirty-three of the Act of 1882.

Substitution of securities; payment for improvements.

- 24 (1) Subsections (4) to (7) of section twenty-four of the Act of 1882 shall have effect whether the land is acquired under the statutory powers by purchase or in exchange or otherwise.
- (2) The words " and notwithstanding that no capital money " is immediately available for the purpose " shall be inserted at the end of section fifteen of the Act of 1890.

Powers not assignable.

- 25 (1) The powers under the Settled Land Acts of a tenant for life are not capable of assignment or release, and do not pass to a person as being, by operation of law or otherwise, an assignee of a tenant for life, and remain exercisable by the tenant for

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life after and notwithstanding any assignment, by operation of law or otherwise, of his estate or interest under the settlement.

This subsection applies notwithstanding that the estate or interest of the tenant for life under the settlement was not in possession when the assignment was made or took effect by operation of law.

- (2) A contract by a tenant for life not to exercise his powers or any of them under the said Acts is void.
- (3) Where an assignment for value of the estate or interest of the tenant for life was made before the commencement of the principal Act, this section shall operate without prejudice to the rights of the assignee, and in that case the assignee's rights shall not be affected without his consent, except that—
 - (a) unless the assignee is actually in possession of the settled land or the part thereof affected, his consent shall not be requisite for the making of leases thereof by the tenant for life provided the leases are made at the best rent that can reasonably be obtained, without fine, and in other respects are in conformity with the Settled Land Acts ; and
 - (b) the consent of the assignee shall not be required to an investment of capital money for the time being affected by the assignment in securities authorised by statute for the investment of trust money.
- (4) Where such an assignment for value is made or comes into operation after the commencement of the principal Act, the consent of the assignee shall not be requisite for the exercise by the tenant for life of any of the powers conferred by the Settled Land Acts:

Provided that—

- (a) the assignee shall be entitled to the same or the like estate or interest in or charge on the land, money, or securities for the time being representing the land, money, or securities comprised in the assignment, as he had by virtue of the assignment in the last-mentioned land, money, or securities; and
 - (b) if the assignment so provides, or if it takes effect by operation of the law of bankruptcy, and after notice thereof to the trustees of the settlement, no investment or application of capital money for the time being affected by the assignment shall be made without the consent of the assignee, except an investment in securities authorised by statute for the investment of trust money; and
 - (c) notice of the intended transaction shall, unless the assignment otherwise provides, be given to the assignee, but a purchaser shall not be concerned to see or inquire whether such notice has been given.
- (5) Where such an assignment for value was made before the commencement of the principal Act, then on the exercise by the tenant for life after such commencement of any of the powers conferred by the Settled Land Acts—
 - (a) a purchaser shall not be concerned to see or inquire whether the consent of the assignee has been obtained; and
 - (b) the provisions of paragraph (a) of the last sub-section shall apply for the benefit of the assignee.
 - (6) A trustee or personal representative who is an assignee-for value shall have power to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, or to any such investment or application of capital money as aforesaid, and

to bind by such consent all persons interested in the trust estate, or the estate of the testator or intestate.

- (7) If by the original assignment, or by any subsequent disposition, the estate or interest assigned or created by the original assignment, or any part thereof, or any derivative interest is settled on persons in succession, whether subject to any prior charge or not, and there is no trustee or personal representative in whom the entirety of the estate or interest so settled is vested, then the person for the time being entitled in possession under the limitations of that settlement, whether as trustee or beneficiary, or who would, if of full age, be so entitled, and notwithstanding any charge or incumbrance subsisting or to arise under such settlement, shall have power to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested or to become interested under such settlement.
- (8) Where an assignee for value, or any person who has power to consent as aforesaid under this section is an infant, the consent may be given on his behalf by his parents or parent, or testamentary or other guardian in the order named.
- (9) The court shall have power to authorise any person interested under any assignment to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, or to any such investment or application of capital money as aforesaid, on behalf of himself and all other persons interested, or who may become interested under such assignment.
- (10) An assignment by operation of the law of bankruptcy where the assignment comes into operation after the commencement of this Act, shall be deemed to be an assignment for value for the purposes of this section.
- (11) An instrument whereby a tenant for life, in consideration of marriage or as part or by way of any family arrangement, not being a security for payment of money advanced, makes an assignment of or creates a charge upon his estate or interest under the settlement is to be deemed one of the instruments creating the settlement, and not an assignment for value for the purposes of this section :

Provided that this subsection shall not have effect with respect to any disposition made before the eighteenth day of August, eighteen hundred and ninety, if inconsistent with the nature or terms of the disposition.

- (12) This section extends to assignments made or coming into operation before or after the commencement of this Act; and in this section " assignment " includes assignment by way of mortgage, and any partial or qualified assignment, and any charge or incumbrance; " assignee " has a meaning corresponding with that of assignment, and " assignee for value includes persons deriving title under the original assignee.
- (13) The foregoing provisions of this paragraph shall have effect in substitution for section fifty of the Act of 1882.

Additional powers.

- 26 It is hereby declared that sub-paragraph (10) of paragraph 1 of the Tenth Schedule to the principal Act does not confer on a, tenant for life or statutory owner a power which is merely a power of revocation or appointment.

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Protection of purchasers.

27 (1) The following paragraph shall be substituted for paragraph 13 of the Fifth Schedule to the principal Act:—

“13 (1) A purchaser of a legal estate in settled land shall not (except as hereby expressly provided) be bound or entitled to call for the production of the trust instrument or any information concerning that instrument 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 or only principal vesting instrument contains the statements and particulars required by this Act to assume that—

- (a) the person in whom the land is by the said instrument vested or declared to be vested is the tenant for life or statutory owner and has all the powers of a tenant for life under the Settled Land Acts, including such additional or larger powers (if any) as are therein mentioned;
- (b) the persons by the said instrument stated to be the trustees of the settlement, 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 said instrument were correct at the date thereof;
- (d) the statements contained in any deed executed in accordance with this Act declaring who are the trustees of the settlement for the purposes of the Settled Land Acts are correct;
- (e) the statements contained in any deed of discharge, executed in accordance with this Act, are correct:

Provided that, as regards the first vesting instrument executed for the purpose of giving effect to—

- (a) a settlement subsisting at the commencement of this Act; or
- (b) an instrument which by virtue of this Act is deemed to be a settlement; or
- (c) a settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act; or
- (d) an instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act and does not comply with the requirements of this Act with respect to the method of effecting such a settlement;

a purchaser shall be concerned to see—

- (i) that the land disposed of to him is comprised in such settlement or instrument;
- (ii) that the person in whom the settled land is by such vesting instrument vested, or declared to be vested, is the person in whom it ought to be vested as tenant for life or statutory owner;
- (iii) that the persons thereby stated to be the trustees of the settlement are the properly constituted trustees of the settlement.

(2) A purchaser of a legal estate in settled land from a personal representative shall be entitled to act on the following assumptions :

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- (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 persons are the duly constituted trustees of the settlement for the purposes of this Act, 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, a disposition by a tenant for life or statutory owner shall, in favour of a purchaser of a legal estate, have effect under the Settled Land Acts notwithstanding that at the date of the transaction there are no trustees of the settlement.
- (4) If a conveyance of or an assent relating to land formerly subject to a vesting instrument does not state who are the trustees of the settlement 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 was entitled to the same free from all limitations, powers, and charges taking effect under that settlement, absolutely and beneficially, or, if so expressed in the conveyance or assent, as personal representative, or trustee for sale or otherwise, and that every statement of fact in such conveyance or assent is correct.”

Definitions.

28 (1) In the Settled Land Acts—

" Lunatic " includes a lunatic whether so found or not and in relation to a lunatic not so found, " committee " includes a person on whom the powers of a committee are conferred under section one of the Lunacy Act, 1908;

" Dower " includes free bench ;

(2) Where an equitable interest in or power over property arises by statute or operation of law, references to the creation of an interest or power include any interest or power so arising.

TRANSITIONAL PROVISIONS

Vesting legal estate in tenant for life.

29 Sub-paragraph (1) and sub-paragraphs (3) to (7) of paragraph 9 of the Fifth Schedule to the principal Act are hereby repealed, and in lieu thereof the following provisions shall have effect:—

“(1) A settlement subsisting at the commencement of this Act is, for the purposes of this Act, a trust instrument.

(2) As soon as practicable after the commencement of this Act, the trustees for the purposes of the Settled Land Acts of every settlement of land

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subsisting at the commencement of this Act (whether or not the settled land is already vested in them) may, and on the request of the tenant for life or statutory owner shall, at the cost of the trust estate, execute a principal vesting deed (containing the proper statements and particulars) declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named (being the tenant for life or statutory owner, and including themselves if they are the statutory owners), and such deed shall (unless the legal estate is already so vested) operate to conveyer vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.

- (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 by the tenant for life or statutory owner, or by any other person interested, for the appointment of such trustees.
- (4) If default is made in the execution of any such principal Testing 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) This paragraph does not apply where, at the commencement of this Act, settled land is held at law or in equity in undivided shares vested in possession.
- (6) In the case of settlements subsisting at the commencement of this Act, all the estates, interests and powers thereby limited, which are not by statute otherwise converted into equitable interests or powers, shall, as from the date of the principal vesting deed or the vesting order take effect only in equity.
- (7) This paragraph does not apply where settled land is vested in personal representatives at the commencement of this Act, or where settled land becomes vested in personal representatives before a principal vesting deed has been executed pursuant to this paragraph.
- (8) No ad valorem stamp duty shall be payable in respect of a vesting deed or order made for giving effect to an existing settlement.”

Where land is vested in personal representative.

30 The provisions of the principal Act relating to the getting in of the settled land from a personal representative shall have effect as follows :—

- “(1) Where settled land remains at the commencement of this Act vested in the personal representatives of a person who dies before such commencement, or becomes vested in personal representatives before a principal vesting deed has been executed for vesting the land in a tenant for life or statutory owner, the personal representatives shall hold the settled land on trust, if and when required so to do, to convey the same to the person who, under the trust instrument, or by virtue of the Settled Land Acts, is the tenant for life or statutory owner and, if more than one, as joint tenants.
- (2) A conveyance under this paragraph shall be made at the cost of the trust estate, and may be made by an assent in writing signed by the personal

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representatives which shall operate as a conveyance. No stamp duty is payable in respect of a vesting assent.

- (3) The obligation to convey settled land imposed on personal representatives by this paragraph is subject and without prejudice—
 - (a) to their rights and powers for purposes of administration; and
 - (b) to their being satisfied that provision has been or will be made for the payment of any unpaid death duties in respect of the land or any interest therein for which they are accountable, and any interest and costs in respect of such duties, or that they are otherwise effectually indemnified against such duties, interest and costs.
- (4) A conveyance under this paragraph shall—
 - (a) if by deed, be a principal vesting deed; and
 - (b) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.
- (5) Nothing contained in this paragraph affects the rights of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under this paragraph as may be required for giving effect to the obligations imposed on them by statute.
- (6) A conveyance by personal representatives under this paragraph, if made by deed, may contain a reservation to themselves of a term of years absolute in the land conveyed upon trusts for indemnifying them against any unpaid death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.
- (7) Nothing contained in this paragraph affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under this section.”

Provisions as to infants.

- 31 (1) Where, at the commencement of the principal Act, an infant is beneficially entitled to land in possession for an estate in fee simple or for a term of years absolute, or would, if of full age, be a tenant for life or have the powers of a tenant for life, the settled land shall, by virtue of the principal 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, if there are no such trustees, then—

- (i) Pending their appointment, the settled land shall, by virtue of the principal 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 parents or parent 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, he shall become the trustee of the settlement, and no trustee shall

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(except by an order of the court) be appointed in his place without his consent:

- (iv) If there is no other person able and willing to appoint trustees the parents or parent or testamentary or other guardian of the infant, if respectively able and willing to act, shall (in the order named) have power by deed to appoint trustees of the settlement in place of the Public Trustee in like manner as if the Public Trustee had refused to act in the trust, and to vest the settled land in them on the trusts aforesaid, and the provisions of the Trustee Acts relating to the appointment of new trustees, and the vesting of trust property shall apply as if the persons aforesaid (in the order named) had been nominated by the settlement for the purpose of appointing new trustees thereof; 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 the settlement are appointed, the settled land shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts aforesaid :

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

- (v) If land to which an infant is beneficially entitled in possession for an estate in fee simple or for a term of years absolute vests in the Public Trustee, but the Public Trustee does not become the trustee of the settlement, and trustees of the settlement are not appointed in his place, then, if and when the infant attains the age of twenty-one years, the land shall vest in him.
- (2) The provisions of this paragraph shall extend to the legal estate in the settled land, except where such legal estate is, at or immediately after the commencement of the principal Act, vested in personal representatives, in which case this paragraph shall have effect without prejudice to the provisions expressly relating thereto.
- (3) Where, at the commencement of the principal Act, any persons appointed under section sixty of the Settled Land Act, 1882, have power to act generally or for any specific purpose on behalf of an infant, then those persons shall, by virtue of the principal Act, become and be the trustees of the settlement.
- (4) Notwithstanding that the settled land is by virtue of this paragraph vested in the trustees of the settlement, they shall, at the cost of the trust estate, in accordance with this Act, execute a principal vesting deed declaring that the settled land is vested in them.
- (5) This paragraph does not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is otherwise made by statute), but it applies to two or more infants entitled as aforesaid jointly.
- (6) This paragraph does not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of full age, but it applies to two or more infants who would, if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life.
- (7) The foregoing provisions of this paragraph shall have effect in substitution for subsections (6) and (8) of section fifty-one of and paragraph 1 of the Sixth Schedule to the principal Act.

FIFTH SCHEDULE

Section 5.

TRUSTEES

PART I

AMENDMENTS

Investments.

- 1 (1) The following paragraph shall be substituted for paragraph (d) of section one of the Act of 1893 :—
 - “(d) In India Seven, Five-and-a-half, Four-and-a-half, Three-and-a-half, Three and Two-and-a-half per cent. Stock, or in any other capital stock which may at any time be issued by the Secretary of State in Council of India under the authority of Act of Parliament, and charged on the revenues of India, or any other securities the interest in sterling whereon is payable out of and charged on the revenues of India.”
- (2) Paragraphs (i) and (k) of the said section one shall have effect and be deemed always to have had effect as if after the word "company" in each of those paragraphs there had been inserted " owning or operating a railway. "

Bearer securities.

- 2 The following section shall be substituted for section seven of the Act of 1893 :—
 - (1) A trustee may, unless expressly prohibited by the instrument creating the trust, retain or invest in securities payable to bearer which, if not so payable, would have been authorised investments:

Provided that securities to bearer retained or taken as an investment by a trustee (not being a trust corporation) shall, until sold, be deposited by him for safe custody and collection of income with a banker or banking company.

A direction that investments shall be retained or made in the name of a trustee shall not, for the purposes of this subsection, be deemed to be such an express prohibition as aforesaid.
 - (2) A trustee shall not be responsible for any loss incurred by reason of such deposit, and any sum payable in respect of such deposit and collection shall be paid out of the income of the trust property.”

Power to sell by auction, &c., and to give valid receipts.

- 3 (1) Subsection (3) of section thirteen of the Act of 1893 is hereby repealed.
- (2) The following subsection shall be inserted at the end of section twenty of the Act of 1893:—

“This section applies notwithstanding anything to the contrary contained in any instrument creating the trust.”

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- (3) The said section twenty as amended by this paragraph shall have effect subject to the statutory restrictions on the power for a sole trustee, not being a trust corporation, to give valid receipts.

Power to compound, &c.

- 4 The powers conferred by subsection (2) of section twenty-one of the Act of 1893 shall be extended so as to include a power—
- (a) to accept any property, real or personal, before the time at which it is made transferable or payable; or
 - (b) to sever and apportion any blended trust funds or property.

Power to raise money.

- 5 (1) The words " for the time being in possession " shall be inserted at the end of subsection (1) of section one hundred and twenty-two of the principal Act, and that subsection applies notwithstanding anything to the contrary in the instrument creating the trust.
- (2) The words " to trustees of property held for charitable " purposes, or to " shall be inserted after " apply " in subsection (2) of the same section.

Devolution of trusts and powers.

- 6 Section twenty-two of the Act of 1893 shall apply to trusts whenever constituted, and shall take effect subject to the restrictions imposed in regard to receipts by a sole trustee not being a trust corporation.

Audit.

- 7 In subsection ,(7) of section one hundred and twenty of the principal Act the words " examined or " shall be inserted after " accounts of the trust property to be " and the words " examination or " shall be inserted after " costs of such. "

Powers to delegate.

- 8 The following sections shall be inserted at the end of Part IV. of the principal Act—
- (1) A trustee intending to remain out of the United Kingdom for a period exceeding one month may, notwithstanding any rule of law or equity to the contrary, by power of attorney, delegate to any person, including a trust corporation, the execution or exercise during his absence from the United Kingdom of all or any trusts, powers and discretions vested in him as such trustee, either alone or jointly with any other person or persons:

Provided that a person being the only other co-trustee and not being a trust corporation shall not be appointed to be an attorney under this subsection.
 - (2) The donor of a power of attorney given under this section shall be liable for the acts or defaults of the donee in the same manner as if they were the acts or defaults of the donor.
 - (3) The power of attorney shall not come into operation unless and until the donor is out of the United Kingdom, and shall be revoked by his return.

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- (4) The power of attorney shall be attested by at least one witness, and shall be filed at the Central Office within ten days after the execution thereof with a statutory declaration by the donor that he intends to remain out of the United Kingdom for a period exceeding one month from the date of such declaration, or from a date therein mentioned.
- (5) The execution of such instrument and statutory declaration shall be verified in such manner as is required by statute in the case of powers of attorney filed at the Central Office.
- (6) If the power of attorney confers a power to dispose of or deal with land or a charge registered under the Land Transfer Acts, an office copy shall be filed at the land registry.
- (7) The statutory declaration aforesaid and a statutory declaration by the donee of the power of attorney that the power has come into operation and has not been revoked by the return of the donor shall be conclusive evidence of the facts stated in favour of any person dealing with the donee.
- (8) In favour of any person dealing with the donee any act done or instrument executed by the donee shall, notwithstanding that the power has never come into operation or has become revoked by the act of the donor or by his death or otherwise, be as valid and effectual as if the donor were alive and of full capacity, and had himself done such act or executed such instrument, unless such person had actual notice that the power had never come into operation or of the revocation of the power before such act was done or instrument executed.
- (9) For the purpose of executing or exercising the trusts or powers delegated to him, the donee may exercise any of the powers conferred on the donor by statute or by the instrument creating the trust, including power, for the purpose of the transfer of any inscribed stock, himself to delegate to an attorney the power to transfer but not including the power of delegation conferred by this section.
- (10) The fact that it appears from any power of attorney given under this section, or from any evidence required for the purposes of any such power of attorney or otherwise, that in dealing with any stock the donee of the power is acting in the execution of a trust shall not be deemed for any purpose to affect any person in whose books the stock is inscribed or registered with any notice of the trust.
- (11) In this section 'trustee' includes a tenant for life and a statutory owner.

A trustee or personal representative acting for the purposes of more than one trust or estate shall not, in the absence of fraud, be affected by notice of any instrument, matter, fact or thing in relation to any particular trust or estate if he has obtained notice thereof merely by reason of his acting or having acted for the purposes of another trust or estate."

Maintenance.

- 9 In subsection (3) of section eighty-eight of the principal Act, the words " if the income available is sufficient and subject " to any rules of the court to the contrary " shall be inserted before " be five pounds. "

Appointments of trustees.

- 10 (1) In subsection (5) of section one hundred and ten of the principal Act the words "intending to renounce or all the executors where they all intend to renounce" shall be inserted after "last surviving executor."
- (2) The following subsection shall be inserted at the end of section ten of the Act of 1893—
- “(7) Where a lunatic or defective, being a trustee, is also entitled in possession to some beneficial interest in the trust property, no appointment of a new trustee in his place shall be made by the continuing trustees or trustee under this section unless leave has been given by the Judge or Master in Lunacy to make the appointment.”
- (3) In subsection (1) of section one hundred and eleven of the principal Act, the words "or that he is not entitled to a" beneficial interest in the trust property in possession" shall be inserted after "acting."

Jurisdiction in regard to lunatics.

- 11 Subsections (2) (3) and (5) of section two of the Lunacy Act, 1922, in regard to trustees shall be read as follows:—

“Where the High Court has power under the Trustee Acts to make orders in relation to lunatics and defectives who are trustees, the Judge or Master in Lunacy shall, save as provided in this section, have no power to make such an order:

Provided that where—

- (a) a lunatic or defective has become a trustee of mortgaged property merely by reason of the mortgage having been paid off; or
- (b) an order in lunacy is made authorising the exercise of a power to appoint a trustee; or
- (c) an order in lunacy is made for giving effect to a contract made before the lunatic or defective was under disability; or
- (d) a lunatic or defective is beneficially entitled to some interest in the property but holds the property or some interest therein under an express implied or constructive trust;

the High Court and the Judge or Master in Lunacy shall, subject to and in accordance with rules made by the Lord Chancellor, have concurrent jurisdiction.”

Application to Settled Land Act Trustees.

- 12 (1) All the powers and provisions contained in the Act of 1893, with reference to the appointment of new trustees, and the discharge and retirement of trustees, shall apply to and include trustees for the purposes of the Settled Land Acts, and for the purpose of the management of land during a minority, whether such trustees are appointed by the court or by the settlement, or under provisions contained in any instrument.
- (2) Where, either before or after the commencement of the principal Act, trustees of a settlement have been appointed by the court for the purposes of the Settled Land Acts, then, after the commencement of that Act—

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- (a) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the settlement though no trustees for the purposes of the Settled Land Acts were thereby appointed; or
- (b) if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being for the purposes of the Settled Land Acts or the personal representatives of the last surviving or continuing trustee for those purposes ;

shall have the statutory powers to appoint new or additional trustees of the settlement for the purposes of the Settled Land Acts.

- (3) Appointments of new trustees for the purposes of the Settled Land Acts made or expressed to be made before the commencement of the principal Act by the trustees or trustee or personal representatives referred to in sub-paragraph (2) (6) of this paragraph or by the persons referred to in sub-paragraph (2) (a) of this paragraph are, without prejudice to any order of the court made before such commencement, hereby confirmed.
- (4) The foregoing provisions of this paragraph shall have effect in substitution for section forty-seven of the Act of 1893.

The Crown.

- 13 The Act of 1893 as amended shall bind the Crown.

PART II

PROVISIONS FOR FACILITATING CONSOLIDATION OF THE LAW RELATING TO TRUSTEES

Supplementary powers of investment.

- 1 In subsection (2) of section one hundred and nineteen of the principal Act the words " or subdemise " shall be inserted after " demise " and the words " less a nominal reversion when by subdemise " shall be inserted after " of not less than five hundred years. "

Protection against liability for rents, &c.

- 2 (1) Where a personal representative or trustee liable as such for—
- (a) any rent, covenant, or agreement reserved by or contained in any lease; or
 - (b) any rent, covenant or agreement payable under or contained in any grant made in consideration of a rentcharge; or
 - (c) any indemnity given in respect of any rent, covenant or agreement referred to in either of the foregoing paragraphs;

satisfies all liabilities under the lease or grant which may have accrued, or been claimed up to the date of the conveyance hereinafter mentioned, and, where necessary, sets apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum which the lessee or grantee agreed to lay out on the property demised or granted, although the period for laying out the same may not have arrived, then and in any such case the personal representative or trustee may convey the property demised or granted to a purchaser, legatee, devisee, or other person entitled to call for a conveyance thereof and thereafter—

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- (i) He may distribute the residuary real and personal estate of the deceased testator or intestate, or, as the case may be, the trust estate, other than the fund, if any, set apart as aforesaid, to or amongst the persons entitled thereto, without appropriating any part, or any further part, as the case may be, of the estate of the deceased or of the trust estate to meet any future liability under the said lease or grant;
 - (ii) Notwithstanding such distribution, he shall not be personally liable in respect of any subsequent claim under the said lease or grant.
- (2) This paragraph operates without prejudice to the right of the lessor or grantor, or the persons deriving title under the lessor or grantor, to follow the assets of the deceased or the trust property into the hands of the persons amongst whom the same may have been respectively distributed; and applies notwithstanding anything to the contrary in the will or other instrument, if any, creating the trust.
- (3) In this paragraph " lease " includes an underlease and an agreement for a lease or underlease and any instrument giving any such indemnity as aforesaid or varying the liabilities under the lease, " grant " applies to a grant whether the rent is created by limitation, grant, reservation, or otherwise, and includes an agreement for a grant and any instrument giving any such indemnity as aforesaid or varying the liabilities under the grant, and " lessee " and " grantee " include persons respectively deriving title under them.
- (4) The provisions of this paragraph shall have effect in substitution for sections twenty-seven and twenty-eight of the Law of Property Amendment Act, 1859, as amended by section one hundred and seventeen of the principal Act.

Protection by means of advertisements.

- 3 It is hereby declared that section twenty-nine of the Law of Property Amendment Act, 1859, as amended by section one hundred and eighteen of the principal Act, does not relieve the trustees or personal representatives from any obligation to make searches or obtain official certificates of search similar to those which an intending purchaser would be advised to make or obtain, and that the said section twenty-nine as so amended applies notwithstanding anything to the contrary in the will or other instrument, if any, creating the trust.

Advancement.

- 4 The following subsection shall be substituted for subsection (1) of section one hundred and twenty-one of the principal Act:—
- “(1) Trustees may at any time or times pay or apply any capital money subject to a trust, for the advancement or benefit, in such manner as they may, in their absolute discretion, think fit, of any person entitled to the capital of the trust property or of any share thereof, whether absolutely or contingently on his attaining any specified age or on the occurrence of any other event, or subject to a gift over on his death under any specified age or on the occurrence of any other event, and whether in possession or in remainder or reversion; and such payment or application may be made notwithstanding that the interest of such person is liable to be defeated by the exercise of a power of appointment or revocation, or to be diminished by the increase of the class to which he belongs :

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Provided that—

- (a) the money so paid or applied for the advancement or benefit of any person shall not exceed altogether in amount one-half of the presumptive or vested share or interest of that person in the trust property; and
- (b) if that person is or becomes absolutely and indefeasibly entitled to a share in the trust property the money so paid or applied shall be brought into account as part of such share; and
- (c) no such payment or application shall be made so as to prejudice any person entitled to any prior life or other interest, whether vested or contingent, in the money paid or applied unless such person is in existence and of full age and consents in writing to such payment or application.”

Appointments of trustees.

- 5 (1) The following paragraphs shall be substituted for paragraphs (c) and (d) of subsection (2) of section one hundred and nine of the principal Act.
- “(c) Appointments of new trustees of conveyances on trust for sale on the one hand and of the settlement of the proceeds of sale on the other hand, shall, subject to any order of the court, be effected by separate instruments, but in such manner as to secure that the same persons shall become the trustees of the conveyance on trust for sale as become the trustees of the settlement of the proceeds of sale.
 - (d) Where new trustees of a settlement are appointed, a memorandum of the names and addresses of the persons who are for the time being the trustees thereof for the purposes of the Settled Land Acts, shall be endorsed, on or annexed to the last or only principal vesting instrument by or on behalf of the trustees of the settlement, and such vesting instrument shall, for that purpose, be produced by the person having the possession thereof to the trustees of the settlement when so required.”
- (2) In subsection (1) of section ten of the Act of 1893, after the words " other persons " the words " whether or not being the persons exercising the power " shall be inserted.
- (3) Subsection (2) of section ten of the Act of 1893 shall have effect as if the word " new " where that word first occurs were omitted therefrom.
- (4) Nothing in the Trustee Acts shall authorise the appointment of a sole trustee not being a trust corporation, where the trustee, when appointed, would not be able to give valid receipts for all capital money arising under the trust.

Vesting orders of land.

- 6 (1) In any of the following cases, namely :—
- (i) Where the court appoints or has appointed a trustee, or where a trustee has been appointed out of court, under any statutory or express power :
 - (ii) Where a trustee entitled to or possessed of any land or interest therein (whether by way of mortgage or otherwise), or entitled to a contingent right therein, either solely or jointly with any other person—
 - (a) is under disability, or

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- (b) is out of the jurisdiction of the High Court, or
- (c) cannot be found, or, being a corporation, has been dissolved:
- (iii) Where it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any interest in land:
- (iv) Where it is uncertain whether the last trustee known to have been entitled to or possessed of any interest in land, is living or dead :
- (v) Where there is no personal representative of a deceased trustee who was entitled to or possessed of any interest in land, or where it is uncertain who is the personal representative of a deceased trustee who was entitled to or possessed of any interest in land :
- (vi) Where a trustee jointly or solely entitled to or possessed of any interest in land, or entitled to a contingent right therein has been required, by or on behalf of a person entitled to require a conveyance of the land or interest or a release of the right, to convey the land or interest or to release the right, and has wilfully refused or neglected to convey the land or interest or release the right for twenty-eight days after the date of the requirement:
- (vii) Where land or any interest therein is vested in a trustee whether by way of mortgage or otherwise, and it appears to the court to be expedient;

the court may make an order vesting the land or interest therein in any such person in any such manner and for any such estate or interest as the court may direct, or releasing or disposing of the contingent right to such person as the court may direct:

Provided that—

- (a) Where the order is consequential on the appointment of a trustee the land or interest therein shall be vested for such estate as the court may direct in the persons who on the appointment are the trustees; and
 - (b) Where the order relates to a trustee entitled or formerly entitled jointly with another person, and such trustee is under disability or out of the jurisdiction of the High Court or cannot be found, or being a corporation has been dissolved, the land, interest or right shall be vested in such other person who remains entitled, either alone or with any other person the court may appoint.
- (2) The foregoing provisions of this paragraph shall have effect in substitution for section twenty-six of the Act of 1893 as amended by any subsequent enactment, and the expression "vesting order" in the Act of 1893 shall be construed as meaning an order made under this paragraph.

Vesting orders of stock and things in action.

- 7 (1) In any of the following cases, namely :—
- (i) Where the court appoints or has appointed a trustee, or where a trustee has been appointed out of court under any statutory or express power :
 - (ii) Where a trustee entitled (whether by way of mortgage or otherwise) alone or jointly with another person to stock or to a thing in action—
 - (a) is under disability; or
 - (b) is out of the jurisdiction of the High Court; or
 - (c) cannot be found, or, being a corporation has been dissolved; or
 - (d) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a thing in action, according to the direction of the person absolutely entitled thereto for twenty-

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eight days next after a request in writing has been made to him by the person so entitled; or

(e) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a thing in action for twenty-eight days next after an order of the court for that purpose has been served on him :

(iii) Where it is uncertain whether a trustee entitled alone . or jointly with another person to stock or to a thing in action is alive or dead :

(iv) Where stock is standing in the name of a deceased person whose personal representative is under disability:

(v) Where stock or a thing in action is vested in a trustee whether by way of mortgage or otherwise and it appears to the court to be expedient:

the court may make an order vesting the right to transfer or call for a transfer of stock, or to receive the dividends or income thereof, or to sue for or recover a thing in action, in any such person as the court may appoint:

Provided that—

(a) Where the order is consequential on the appointment of a trustee, the right shall be vested in the persons who, on the appointment, are the trustees :

(b) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone or jointly with any other person whom the court may appoint.

(2) In all cases where a vesting order can be made under this paragraph, the court may, if it is more convenient, appoint some proper person to make or join in making the transfer :

Provided that the person appointed to make or join in making a transfer of stock shall be some proper officer of the bank, or the company or society whose stock is to be transferred.

(3) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the court under the Trustee Acts, may transfer the stock to himself or any other person, according to the order, and the Banks of England and Ireland and all other companies shall obey every order under this paragraph according to its tenor.

(4) After notice in writing of an order under this paragraph it shall not be lawful for the Bank of England or of Ireland or any other company to transfer any stock to which the order relates or to pay any dividends thereon except in accordance with the order.

(5) The court may make declarations and give directions concerning the manner in which the right to any stock or thing in action vested under the provisions of the Trustee Acts is to be exercised.

(6) The provisions of the Trustee Acts as to vesting orders shall apply to shares in ships registered under the Acts relating to merchant shipping as if they were stock.

(7) The provisions of this paragraph shall have effect in substitution for section thirty-five of the Act of 1893 as amended by any subsequent enactment.

Orders conclusive evidence.

8 The following section shall be substituted for section forty of the Act of 1893 :—

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Where a vesting order is made as to any land under this Act or under the Lunacy Act, 1890 (as amended), or under any Act relating to lunacy in Northern Ireland, founded on an allegation of any of the following matters namely—

- (a) the personal incapacity of a trustee or mortgagee; or
- (b) that a trustee or mortgagee or the personal representative of or other person deriving title under a trustee or mortgagee is out of the jurisdiction of the High Court or cannot be found, or being a corporation has been dissolved; or
- (c) that it is uncertain which of two or more trustees, - or which of two or more persons interested in a mortgage, was the survivor; or
- (d) that it is uncertain whether the last trustee or the personal representative of or other person deriving title under a trustee or mortgagee, or the last surviving person interested in a mortgage is living or dead; or
- (e) that any trustee or mortgagee has died intestate without leaving a person beneficially interested under the intestacy or has died and it is not known who is his personal representative or the person interested;

the fact that the order has been so made shall be conclusive evidence of the matter so alleged in any court upon any question as to the validity of the order; but this section shall not prevent the court from directing a reconveyance or surrender or the payment of costs occasioned by any such order if improperly obtained.”

SIXTH SCHEDULE

Section 6.

LAND CHARGES, &C

PART I

AMENDMENTS

Closing of the annuities register.

- 1 The Land Charges Acts shall have effect as if the following section were comprised therein:—

“An annuity registered before the commencement of the principal Act, in the register of annuities may remain registered until the entry is vacated in the prescribed manner, on the prescribed evidence as to satisfaction cesser or discharge being furnished.

No annuity shall be entered in the register of annuities after the commencement of the principal Act, and the register may be closed in the prescribed manner when all the entries therein have been vacated, or the prescribed evidence of the satisfaction cesser or discharge of all the annuities has been furnished.”

Local and charges.

- 2 In sub-paragraph (7) of paragraph 2 of the Seventh Schedule to the principal Act the words " or any order, scheme or other instrument made in pursuance of any statute " shall be inserted after " as aforesaid " and in the proviso to that subsection the words "border, scheme or instrument" shall be inserted after " statute "

Penalty for misdemeanour in reference to official certificates of search.

- 3 The following words shall be inserted at the end of subsection (6) of section two of the Conveyancing Act, 1882 :—
- “and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds or to both such imprisonment and fine.”

PART II

PROVISIONS FOR FACILITATING CONSOLIDATION OF THE LAW RELATING TO THE REGISTRATION OF PENDING ACTIONS, ANNUITIES, WRITS, ORDERS, DEEDS OF ARRANGEMENT AND LAND CHARGES, AND TO SEARCHES

Applications.

- 1 Every application to register a pending action, writ or order affecting land, deed of arrangement affecting land or land charge, shall be in the prescribed form and shall contain the prescribed particulars.

Pending actions.

- 2 The enactments (namely, section seven of the Judgments Act, 1839, and section sixteen of the principal Act) relating to the registration of pending actions shall be read as follows :—
- “A pending action (that is to say, any action, information or proceeding pending in court relating to land or any interest in or charge on land, and a petition in bankruptcy filed after the commencement of the principal Act) may be registered in the register of pending actions.”

Register of land charges.

- 3 (1) The following classes of charges on, or obligations affecting, land may be registered as land charges in the register of land charges, namely :—
- Class A—A rent, or annuity, or principal money payable by instalments or otherwise, with or without interest, being a charge (otherwise than by deed) upon land created pursuant to the application of some person either before or after the commencement of the principal Act—
- (i) under the provisions of any Act of Parliament, for securing to any person either the money spent by him or the costs, charges, and expenses incurred by him under such Act, or the money advanced by him for repaying the money spent, or the costs, charges, and expenses

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incurred by another person under the authority of an Act of Parliament;
or

- (ii) under section thirty-five of the Land Drainage Act, 1861; or
- (iii) under section twenty or section forty-one of the Agricultural Holdings Act, 1923, or any previous similar enactment; or
- (iv) under section four or section six of the Tithe Act, 1918; or
- (v) under section one of the Tithe Annuities Apportionment Act, 1921;

but not including a rate or scot.

Class B—A charge on land (not being a local land charge) of any of the kinds described in Class A, created, otherwise than pursuant to the application of any person, either before or after the commencement of the principal Act, but if created before such commencement only if acquired under a conveyance made after such commencement.

Class C—A mortgage charge or obligation affecting land of any of the following kinds, created either before or after the commencement of the principal Act, but if created before such commencement only if acquired under a conveyance made after such commencement, namely :—

- (i) Any legal mortgage not being a mortgage protected by a deposit of documents relating to the legal estate affected and (where the whole of the land affected is within the jurisdiction of a local deeds registry) not being registered in the local deeds register (in the Land Charges Acts called a " puisne mortgage "); and
- (ii) Any equitable charge acquired by a tenant for life 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 (in the Land Charges Acts called " a limited owner's charge "); and
- (iii) Any other equitable charge, which is not secured by a deposit of documents relating to the legal estate affected or does not arise or affect an interest arising under a trust for sale or a settlement and is not included in any other class of land charge (in the Land Charges Acts called " a general equitable charge "); and
- (iv) Any contract by an estate owner or by a person entitled at the date of the contract to have a legal estate conveyed to him to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption or any other like right (in the Land Charges Acts referred to as " an estate contract ")

Class D—A charge or obligation affecting land of any of the following kinds, namely :—

- (i) Any charge acquired by the Commissioners of Inland Revenue under any statute passed or hereafter to be passed for death duties leviable or payable on any death which occurs after the commencement of the principal Act; and
- (ii) A covenant or agreement (not being a covenant or agreement made between a lessor and lessee) restrictive of the user of land entered into after the commencement of the principal Act (in the Land Charges Acts referred to as "a restrictive covenant"); and
- (iii) Any easement right or privilege over or affecting land created or arising after the commencement of the principal Act, and being merely an

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equitable interest (in the Land Charges Acts referred to as an "equitable easement").

Class E—An annuity within the meaning of the Judgments Act, 1855, created before the commencement of the principal Act, and not registered in the register of annuities.

- (2) A land charge shall be registered in the name of the estate owner whose estate is intended to be affected save that, in the case of a land charge registered before the commencement of the principal Act, in the name of a person not being the estate owner, it may remain so registered until it is registered in the name of the estate owner in the prescribed manner.
- (3) Where a land charge is not created by an instrument, short particulars of the effect of the charge shall be furnished with the application to register the charge.
- (4) 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 duties unless the duty has become a charge on the land, and the application to register any such charge, shall state the duties in respect of which the charge is claimed, and, so far as possible, shall define the land affected, and such particulars shall be entered or referred to in the register.
- (5) In the case of a land charge for securing money, created by a company, registration under section ninety-three of the Companies (Consolidation) Act, 1908, shall be sufficient in place of registration under the Land Charges Acts, and shall have effect as if the land charge had been registered under the Land Charges Acts.
- (6) In the case of a general equitable charge, restrictive covenant, equitable easement or estate contract, affecting land within any of the three ridings, the registration in the prescribed manner in the appropriate local deeds registry of the document creating it shall be sufficient in place of registration under the Land Charges Acts, and the registration shall have effect as if the land charge created by the document had been registered under the Land Charges Acts.
- (7) A puisne mortgage created before the commencement of the principal Act may be registered as a land charge before any transfer of the mortgage is made.
- (8) The registration of a land charge may be vacated pursuant to an order of court, or a judge thereof.
- (9) The provisions of this paragraph shall have effect in substitution for section ten of the Act of 1888.

Protection of purchasers.

- 4 (1) A land charge of Class A created after the thirty-first day of December, eighteen hundred and eighty-eight, is void as against a purchaser of the land charged therewith or of any interest in such land, unless the land charge is registered in the register of land charges before the completion of the purchase.
- (2) A land charge of Class B, C or D created or arising after the commencement of the principal Act, shall (save as hereinafter provided) be void as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase:

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Provided that as respects a land charge of Class D and an estate contract created or entered into after the commencement of the principal Act, the last subsection only applies in favour of a purchaser of a legal estate for money or money's worth.

- (3) The foregoing provisions of this paragraph shall have effect in substitution for section twelve of the Act of 1888.

Further protection of purchasers.

- 5 (1) After the expiration of one year from the first conveyance, occurring on or after the first day of January, eighteen hundred and eighty-nine, of a land charge of Class A created before that date, the person entitled thereto is not able to recover the same or any part thereof, as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the register of land charges before the completion of the purchase.
- (2) After the expiration of one year from the first conveyance, occurring after the commencement of the principal Act, of a land charge of Class B or C created before such commencement, the person entitled thereto shall not be able to enforce or recover the same or any part thereof as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase.
- (3) The foregoing provisions of this paragraph shall have effect in substitution for section thirteen of the Act of 1888.

Rules.

- 6 The words "and any assignment thereof" in sub-paragraph (3) of paragraph 1 of the Seventh Schedule to the principal Act are hereby repealed, and the power to make general rules shall be extended so as to authorise the making of rules providing for the registration of a puisne mortgage.

Saving of over-reaching powers.

- 7 The Land Charges Acts shall have effect as if the following sections were included therein:—
- “(1) The registration of any charge, annuity or other interest under the Land Charges Acts shall not prevent such charge, annuity or interest being overreached under any provision contained in any other statute, except where otherwise provided by such other statute.
- (2) The registration as a land charge of a puisne mortgage or charge shall not operate to prevent such mortgage or charge being overreached in favour of a prior mortgagee or a person deriving title under him where, by reason of a sale foreclosure or otherwise, the right of the puisne mortgagee or subsequent chargee to redeem is barred.”
- “(1) As respects pending actions, writs, orders, deeds of arrangement and land charges, not including local land charges, required to be registered or re-registered after the commencement of the principal Act, the Land Charges Acts shall not apply thereto if and so far as they affect registered land, and

can be protected under the Land Transfer Acts, by lodging or registering a creditor's notice, restriction, caution, inhibition or other notice.

- (2) Nothing in the Land Charges Acts shall impose on the registrar any obligation to ascertain whether or not a pending action, writ, order, deed of arrangement or land charge affects registered land;”

Application to the Crown.

- 8 The Land Charges Acts shall bind the Crown, but nothing therein contained shall be construed as rendering land owned or occupied for the purposes of the Crown, subject to any charge to which independently of those enactments it would not be subject.

SEVENTH SCHEDULE

Section 7.

ADMINISTRATION OF ESTATES

PART I

AMENDMENTS

Number of personal representatives.

- 1 The following proviso shall be inserted at the end of subsection (7) of section one hundred and fifty-five of the principal Act:—

“Provided that the court in granting administration may act on such prima facie evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by probate rules.”

Representation.

- 2 (1) In subsection (7) of section one hundred and fifty-six of the principal Act the words " or in respect of a trust estate " only " shall be inserted after " there is no personal estate. "
- (2) The following proviso shall be inserted at the end of the said subsection :—

“Provided that where the estate of the deceased is known to be insolvent the grant of representation to the real and personal estate shall not be severed except as regards a trust estate.”

Grant of representation to a trust corporation.

- 3 (1) The following paragraph shall be inserted at the end of subsection (5) of section one hundred and fifty-seven of the principal Act:—

“This subsection does not apply to securities registered or inscribed in the name of a syndic, or to land or a charge registered under the Land Transfer

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Acts, in the name of a syndic, but such securities, land or charge shall be transferred by the syndic to the corporation or as the corporation may direct.”

(2) At the end of the said section the following words shall be inserted:—

“and no such vesting or transfer as aforesaid shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.”

Administration granted to nominee of the Crown.

4 The following subsections shall be inserted at the end of section two of the Intestates Estates Act, 1884 :—

“(2) The Treasury Solicitor shall not be required when applying for or obtaining administration of the estate of a deceased person for the use or benefit of His Majesty, to deliver, nor shall the Probate, Divorce and Admiralty Division of the High Court or the Commissioners of Inland Revenue be entitled to receive in connexion with any such application or grant of administration any affidavit, statutory declaration, account, certificate, or other statement verified on oath; but the Treasury Solicitor shall deliver and the said Division and Commissioners respectively shall accept, in lieu thereof, an account or particulars of the estate of the deceased signed by or on behalf of the Treasury Solicitor.

(3) References in sections two, four, six and seven of the Treasury Solicitor Act, 1876, and in subsection (3) of section three of the Duchy of Lancaster Act, 1920, to " personal estate " shall include real estate.”

Assent by personal representatives.

5 The following section shall be substituted for section one hundred and fifty-eight of the principal Act:—

(1) A personal representative may assent to the vesting in any person who (whether by devise, bequest, devolution, appropriation or otherwise) may be entitled thereto, either beneficially or as a trustee or personal representative of any estate or interest in real estate to which the testator or intestate was entitled or over which he exercised a general power of appointment by his will (including the statutory power to dispose of entailed interests), and which devolved upon the personal representative.

(2) The assent shall operate to vest in that person the estate or interest to which the assent relates, and, unless a contrary intention appears, the assent shall relate back to the death of the deceased.

(3) The statutory covenants implied by a person being expressed to convey as personal representative, may be implied in an assent in like manner as in a conveyance by deed.

(4) An assent to the vesting of a legal estate shall be in writing, signed by the personal representative, and shall name the person in whose favour it is given and shall operate to vest in that person the legal estate to which it relates; and an assent not in writing or not in favour of a named person shall not be effectual to pass a legal estate.

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- (5) Any person in whose favour an assent or conveyance of a legal estate is made by a personal representative, may require that notice of the assent or conveyance be written or endorsed on or permanently annexed to the probate or letters of administration, at the cost of the estate of the deceased, and that the probate or letters of administration be produced at the like cost, to prove that the notice has been placed thereon or annexed thereto.
- (6) A statement in writing by a personal representative that he has not given or made an assent or conveyance in respect of a legal estate, shall, in favour of a purchaser (but without prejudice to any previous disposition made in favour of another purchaser deriving title mediately or immediately under the personal representative), be sufficient evidence that an assent or conveyance has not been given or made in respect of the legal estate to which the statement relates, unless notice of a previous assent or conveyance affecting that estate has been placed on or annexed to the probate or administration.

A conveyance by a personal representative of a legal estate to a purchaser accepted on the faith of such a statement shall (without prejudice as aforesaid and unless notice of a previous assent or conveyance affecting that estate has been placed on or annexed to the probate or administration) operate to transfer or create the legal estate expressed to be conveyed in like manner as if no previous assent or conveyance had been made by the personal representative.

A personal representative making a false statement, in regard to any such matter shall be liable in like manner as if the statement had been contained in a statutory declaration.

- (7) An assent or conveyance by a personal representative in respect of a legal estate shall, in favour of a purchaser, unless notice of a previous assent or conveyance affecting that legal estate has been placed on or annexed to the probate or administration, be taken as sufficient evidence that the person in whose favour the assent or conveyance is given or made is the person entitled to have the legal estate conveyed to him, and upon the proper trusts (if any), but shall not otherwise prejudicially affect the claim of any person rightfully entitled to the estate vested or conveyed or any charge thereon.
- (8) A conveyance of a legal estate by a personal representative to a purchaser shall not be invalidated by reason only that the purchaser may have notice that all the debts, liabilities, funeral, and testamentary or administration expenses, duties, and legacies of the deceased have been discharged or provided for.
- (9) An assent or conveyance given or made by a personal representative shall not, except in favour of a purchaser of a legal estate, prejudice the right of the personal representative or any other person to recover the estate or interest to which the assent or conveyance relates, or to be indemnified out of such estate or interest against any duties, debt, or liability to which such estate or interest would have been subject if there had not been any assent or conveyance.
- (10) A personal representative may, as a condition of giving an assent or making a conveyance, require security for the discharge of any such duties, debt, or liability, but shall not be entitled to postpone the giving of an assent merely

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by reason of the subsistence of any such duties, debt or liability if reasonable arrangements have been made for discharging the same; and an assent may be given subject to any legal estate or charge by way of legal mortgage.

- (11) Nothing in this section shall impose any stamp duty in respect of an assent.
- (12) In this section " purchaser " means a purchaser for money or money's worth.
- (13) This section applies to assents and conveyances made after the commencement of this Act, whether the testator or intestate died before or after such commencement."

Construction of documents.

6 The following paragraphs shall be respectively substituted for paragraphs (a) and (c) of subsection (3) of section one hundred and fifty of the principal Act:—

“(a) references to any Statutes of Distribution in an instrument inter vivos made or in a will coming into operation after the commencement of this Act, shall be construed as references to this Part of this Act; and references in such an instrument or will to statutory next of kin shall be construed, unless the context otherwise requires, as referring to the persons who would take beneficially on an intestacy under the foregoing provisions of this Part of this Act;”

“(c) trusts declared in an instrument inter vivos made, or in a will coming into operation, before the commencement of this Act by reference to the Statutes of Distribution, shall, unless the contrary thereby appears, be construed as referring to the enactments (other than the Intestates' Estates Act, 1890) relating to the distribution of effects of intestates which were in force immediately before the commencement of this Act.”

Death duties.

7 The words " or alter the incidence of death duties" shall be inserted at the end of section one hundred and fifty-three of the principal Act.

PART II

PROVISIONS FACILITATING CONSOLIDATION OF THE LAW RELATING TO ADMINISTRATION OF ESTATES

Demise of the Crown.

1 Subsection (5) of section one hundred and fifty-five of the principal Act applies on the demise of the Crown as respects all property real and personal vested in the Crown as a corporation sole.

Executor of executor represents original testador.

2 The statute 25 Edw. 3, St. 5, c. 5, and section sixteen of the Court of Probate Act, 1858, are hereby repealed, and in lieu thereof the following provisions shall have effect:—

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“(1) An executor of a sole or last surviving executor of a testator shall be the executor of that testator.

This provision shall not apply to an executor who does not prove the will of his testator, and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that testator, it shall cease to apply on probate being granted to that other executor.

(2) So long as the chain of representation is unbroken the last executor in the chain shall be the executor of every preceding testator.

(3) The chain of representation shall be broken by—

- (a) an intestacy; or
- (b) the failure of a testator to appoint an executor; or
- (c) the failure to obtain probate of a will ;

but shall not be broken by a temporary grant of administration if probate is subsequently granted.

(4) Every person in the chain of representation to a testator—

- (a) shall have the same rights in respect of the real and personal estate of that testator as the original executor would have had if living;
- (b) shall, to the extent to which the real and personal estate of that testator has come to his hands, be answerable as if he were an original executor.”

Discretion of court.

3 The following proviso shall be inserted at the end of subsection (8) of section one hundred and fifty-six of the principal Act—

“Provided that where the deceased died wholly intestate as to his real and personal estate administration shall—

- (a) unless by reason of the insolvency of the estate or other special circumstances the court thinks it expedient to grant administration to some other person, be granted to some one or more of the persons interested under this Act in the residuary estate of the deceased, if an application is made for the purpose;
- (b) in regard to land settled previously to the death of the deceased, be granted to the trustees, if any, of the settlement if willing to act.”

Special presentation as respects settled land.

4 The following subsections shall be substituted for subsections (1) and (2) of section one hundred and sixty-one of the principal Act:—

“(1) Where settled land becomes vested in a personal representative, not being a trustee of the settlement, upon trust to convey the land to or assent to the land vesting in the tenant for life or statutory owner in order to give effect to a settlement created before the death of the deceased and not by his will, or would, on the grant of representation to him, have become so vested, such representative may—

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- (a) before representation has been granted, renounce his office in regard only to such settled land without renouncing in regard to other property;
 - (b) after representation has been granted, apply to the court for revocation of the grant in regard to the settled land without applying in regard to other property.
- (2) Whether such renunciation or revocation is made or not, the trustees of the settlement, or any person beneficially interested thereunder, may apply to the High Court for an order appointing a special or additional personal representative in respect of the settled land; and a special or additional personal representative, if and when appointed under the order, shall be in the same position as if representation had originally been granted to him alone in place of the original personal representative, if any, or to him jointly with the original personal representative, as the case may be, limited to the settled land, but without prejudice to any previous acts and dealings of and notices to the personal representative originally constituted.”

Liability for fraudulently obtaining or retaining estate.

- 5 The statute (43 Eliz., c. 8) relating to the liability for fraudulently obtaining or retaining the estate of a deceased person shall be read as follows :—

“If any person, to the defrauding of creditors or without full valuable consideration, obtains, receives or holds any real or personal estate of a deceased person or the release of any debt or liability due to the estate of the deceased, he shall be charged as executor in his own wrong to the extent of the real and personal estate received or coming to his hands, or the debt or liability released, after deducting—

- (a) any debt for valuable consideration and without fraud due to him from the deceased person at the time of his death;
- (b) any payment made by him which might properly be made by a personal representative.”

Trust for sale.

- 6 The following section shall be substituted for section one hundred and forty-seven of the principal Act:—

- (1) On the death of a person intestate as to any real or personal estate, such estate shall be held by his personal representatives—
 - (a) as to the real estate upon trust for sale; and
 - (b) as to the personal estate upon trust to call in sell and convert into money such part thereof as may not consist of money ;

with power to postpone sale and conversion for such a period as the personal representatives, without being liable to account, may think proper, and so that any reversionary interest shall not be sold until it falls into possession, unless the personal representatives see special reason for sale; and so also that, unless required for purposes of administration owing to want of other assets, personal chattels shall not be sold except for special reason.

- (2) Out of the net money to arise from the sale and conversion of the real and personal estate (after payment of costs), and out of the ready money of the deceased (so far as not disposed of by will), the personal representative

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shall pay all such funeral, testamentary and administration expenses, debts and other liabilities as are properly payable thereout having regard to the statutory rules of administration, and out of the residue of the said money the personal representative shall set aside a fund sufficient to provide for any pecuniary legacies bequeathed by the will (if any) of the deceased.

- (3) During the minority of any beneficiary or the subsistence of any life interest and pending the distribution of the whole or any part of the estate of the deceased, the personal representatives may invest the residue of the said money, or so much thereof as may not have been distributed, in any investments for the time being authorised by statute for the investment of trust money, with power, at the discretion of the personal representatives, to change such investments for others of a like nature.
- (4) The residue of the said money and any investments for the time being representing the same, including (but without prejudice to the trust for sale) any part of the estate of the deceased which may be retained unsold and is not required for the administration purposes aforesaid, is, in this Act, referred to as " the residuary estate of the intestate."
- (5) The income, including net rents and profits of real estate and chattels real after payment of rates, taxes, rent, costs of insurance, repairs and other outgoings properly attributable to income, of so much of the real and personal estate of the deceased as may not be disposed of by his will, if any, or may not be required for the administration purposes aforesaid, may, however such estate is invested, as from the death of the deceased, be treated and applied as income, and for that purpose any necessary apportionment may be made between tenant for life and remainderman.
- (6) Nothing in this section shall affect the rights of any creditor of the deceased or the rights of the Crown in respect of death duties.
- (7) Where the deceased leaves a will, this section shall have effect subject to the provisions therein contained."

Order of administration of assets.

7 Section one of the Administration of Estates Act, 1869, and section ten of the Judicature Act, 1875, as amended by subsection (10) of section one hundred and fifty-six of the principal Act are hereby repealed and the following provisions shall have effect in lieu thereof :—

- “(1) Where the estate of a deceased person is insolvent, his real and personal estate shall be administered in accordance with the rules set out in Part I. of the following table and all other rules of administration of assets are abolished.
- (2) The right of retainer of a personal representative and his right to prefer creditors may be exercised in respect of all assets, but the right of retainer shall only apply to debts owing to the personal representative in his own right whether solely or jointly with another person.

Subject as aforesaid, nothing in the foregoing provisions shall affect the right of retainer of a personal representative, or his right to prefer creditors.

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- (3) Where the estate of a deceased person is solvent his real and personal estate shall, subject to rules of court and the statutory provisions as to charges on property of the deceased, and to the provisions (if any) contained in his will, be applicable towards the discharge of the funeral, testamentary and administration expenses, debts and liabilities payable thereout in the order mentioned in Part II of the following table:—

THE TABLE ABOVE REFERRED TO.

PART I.

**RULES AS TO PAYMENT OF DEBTS
WHERE THE ESTATE IS INSOLVENT.**

1. The funeral, testamentary, and administration expenses have priority.
2. Subject as aforesaid, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities provable and as to the valuation of annuities and future and contingent liabilities respectively, and as to the priorities of debts and liabilities, as may be in force for the time being under the law of bankruptcy with respect to the assets of persons adjudged bankrupt.

PART II.

**ORDER OF APPLICATION OF ASSETS
WHERE THE ESTATE IS SOLVENT.**

- (1) Property of the deceased undisposed of by will, subject to the retention thereof of a fund sufficient to meet any pecuniary legacies.
 - (2) Property of the deceased not specifically devised or bequeathed but included (either by a specific or general description) in a residuary gift, subject to the retention out of such property of a fund sufficient to meet any pecuniary legacies, so far as not provided for as aforesaid.
 - (3) Property of the deceased specifically appropriated or devised or bequeathed (either by a specific or general description) for the payment of debts.
 - (4) Property of the deceased charged with, or devised or bequeathed (either by a specific or general description) subject to a charge for the payment of debts.
 - (5) The fund (if any) retained to meet pecuniary legacies.
 - (6) Property specifically devised or bequeathed rateably according to value.
 - (7) Property appointed by will under a general power, including the statutory power to dispose of entailed interest rateably according to value.
 - (8) The following provisions shall also apply—
 - (a) The order of application may be varied by the will of the deceased.
 - (b) This part of the Table does not affect the liability of land to answer the death duty imposed thereon in exoneration of other assets.”
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Charges on property of deceased.

- 8 The Real Estate Charges Acts, 1854, 1867 and 1877 are hereby repealed, and in lieu thereof the following provisions shall have effect:—

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

- “(1) Where a person dies possessed of, or entitled to, or under a general power of appointment (including the statutory power to dispose of entailed interests) by his will disposes of, an interest in property which at the time of his death is charged with the payment of money, whether by way of legal mortgage, equitable charge or otherwise (including a lien for unpaid purchase money), and the deceased has not by will, deed or other document signified a contrary or other intention, the interest so charged shall, as- between the different persons claiming through the deceased, be primarily liable for the payment of the charge; and every part of the said interest, according to its value, shall bear a proportionate part of the charge on the whole thereof.
- (2) Such contrary or other intention shall not be deemed to be signified—
- (a) by a general direction for the payment of debts or of all the debts of the testator out of his personal estate, or his residuary real and personal estate, or his residuary real estate; or
 - (b) by a charge of the debts upon any such estate,
- unless such intention is further signified by words expressly or by necessary implication referring to all or some part of the charge.
- (3) Nothing in the foregoing provisions shall affect the right of a person entitled to the charge to obtain payment or satisfaction thereof either out of the other asset of the deceased or otherwise.”

The right to follow property and powers of the court in relation thereto.

- 9 The enactments relating to the right to follow property and for enabling effect to be given to the rights of creditors and other persons interested shall be read as follows :

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- “(1) An assent or conveyance by a personal representative to a person other than a purchaser does not prejudice the rights of any person to follow the property to which the assent or conveyance relates, or any property representing the same, into the hands of the person in whom it is vested by the assent or conveyance, or of any other person (not being a purchaser) who may have received the same or in whom it may be vested.
- (2) Notwithstanding any such assent or conveyance the court may, on the application of any creditor or other person interested—
- (a) order a sale, exchange, mortgage, charge, lease, payment, transfer or other transaction to be carried out which the court considers requisite for the purpose of giving effect to the rights of the persons interested;
 - (b) declare that the person, not being a purchaser in whom the property is vested is a trustee for those purposes;
 - (c) give directions respecting the preparation and execution of any conveyance or other instrument or as to any other matter required for giving effect to the order;
 - (d) make any vesting order, or appoint a person to convey in accordance with the provisions of the Trustee Acts.
- (3) Nothing in the foregoing provisions shall prejudice the rights of a purchaser or a person deriving title under him, but the said provisions shall apply whether the testator or intestate died before or after the commencement of the principal Act.”

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Power of appropriation.

10 (1) The following paragraphs shall respectively be substituted for paragraphs (i), (ii) and (v) of subsection (1) of section one hundred and sixty of the principal Act:—

“(i) An appropriation shall not be made under this section so as to affect prejudicially any specific devise or bequest.

(ii) An appropriation of property, whether or not being an investment authorised by law or by the will (if any) of the deceased for the investment of money subject to the trust, shall not (save as hereinafter mentioned) be made under this section except with the following consents :—

(a) When made for the benefit of a person absolutely and beneficially entitled in possession, the consent of that person;

(b) When made in respect of any settled legacy share or interest, the consent of either the trustee thereof, if any (not being also the personal representative), or the person who may for the time being be entitled to the income :

Provided that, if the person whose consent is required under the foregoing provisions is an infant or a lunatic or defective, the consent shall be given on his behalf by his parents or parent or testamentary or other guardian, committee or receiver, or if in the case of an infant, there is no such parent or guardian by the court on the application of his next friend :

(v) If, independently of the personal representative, there is no trustee of a settled legacy share or interest, and no person of full age and capacity entitled to the income thereof, no consent shall be required to an appropriation in respect of such legacy share or interest, provided that the appropriation is of an investment authorised as aforesaid.”

(2) The following subsections shall respectively be substituted for subsections (2) and (9) of the said section one hundred and sixty:—

“(2) For the purposes of such appropriation, the personal representative may ascertain and fix the value of the respective parts of the real and personal estate and the liabilities of the deceased as he may think fit, and shall for that purpose employ a duly qualified valuer in any case where such employment may be necessary; and may make any conveyance (including an assent) which may be requisite for giving effect to the appropriation.”

“(9) This section shall apply whether the deceased died intestate or not, and whether before or after the commencement of this Act, and shall extend to property over which a testator exercises a general power of appointment, including the statutory power to dispose of entailed interests, and shall authorise the setting apart of a fund to answer an annuity by means of the income of that fund or otherwise.”

Appointment of trustees of infant's property.

- 11 Subsection (7) of section one hundred and ten of the principal Act shall apply to a devise as well as to a bequest.

Succession.

- 12 (1) Nothing in section one hundred and forty-eight of the principal Act shall affect the descent or devolution of an entailed interest.
- (2) In paragraph (vii) of subsection (1) of section one hundred and fifty of the principal Act after the words " Duke may " the words " without prejudice to the powers reserved by section nine of the Civil List Act, 1910, or any other powers " shall be inserted.

Lunatics and infants.

- 13 The following subsections shall be substituted for subsections (2) and (3) of section one hundred and fifty-four of the principal Act:—

“(2) The foregoing provisions of this Part of this Act shall not apply to any beneficial interest in real estate (not including chattels real) to which a lunatic or defective living and of full age at the commencement of this Act, and unable, by reason of his incapacity, to make a will, who thereafter dies intestate in respect of such interest without having recovered his testamentary capacity, was entitled at his death; and such beneficial interest (not being an interest ceasing on his death) shall, without prejudice to any will of the deceased, devolve in accordance with the general law in force before the commencement of this Act applicable to freehold land, and that law shall, notwithstanding any repeal, apply to the case.

For the purposes of this subsection a lunatic or defective who dies intestate as respects any beneficial interest in real estate shall not be deemed to have recovered his testamentary capacity unless his committee or receiver has been discharged.

- (3) Where an infant dies after the commencement of this Act without having been married, and independently of this subsection he would, at his death, have been equitably entitled under a settlement (including a will) to a vested estate in fee simple or absolute interest in freehold land, or in any property settled to devolve therewith or as freehold land, such infant shall be deemed to have had an entailed interest, and the settlement shall be construed accordingly.

Nothing in this Part of this Act shall affect the devolution of an entailed interest as an equitable interest.”

Personal chattels.

- 14 In the definition of "personal chattels" in subsection (1) of section one hundred and fifty-four of the principal Act, the words " live and dead stock and " shall be omitted and the words " used at the death of the intestate " shall be substituted for the word " acquired. "

Application to the Crown.

- 15 (1) Part VIII. of the principal Act binds the Crown and the Duchy of Lancaster and the Duke of Cornwall for the time being as respects the estates of persons dying after the commencement of the principal Act, but not so as to affect the time within which proceedings for the recovery of real or personal estate vesting in or devolving on His Majesty in right of His Crown, or His Duchy of Lancaster, or on the Duke of Cornwall, may be instituted.
- (2) Nothing in the said Part shall in any manner affect or alter the descent or devolution of any property for the time being vested in His Majesty either in right of the Crown or of the Duchy of Lancaster or of any property for the time being belonging to the Duchy of Cornwall.

EIGHTH SCHEDULE

Section 8.

PROVISIONS FACILITATING THE CONSOLIDATION OF THE
LAW RELATING TO REGISTRATION OF TITLE TO LAND

Registration of legal estates.

- 1 The words " for value " in section one hundred and sixty-five of the principal Act are hereby repealed.

Definitions.

- 2 "Registered land" in the principal Act means land or any estate or interest in land the title to which is registered under the Act of 1875 and includes any easement, right, privilege, or benefit which is appurtenant or appendant thereto, and any mines and minerals within or under the land and held therewith.

Power to create charges.

- 3 (1) The proprietor of any registered land may by deed—
- (a) charge the registered land with the payment at an appointed time of any principal sum of money either with or without interest;
 - (b) charge the registered land in favour of a building society under the Building Societies Acts, 1874 to 1894, in accordance with the rules of that society.
- (2) A charge may be in any form provided that—
- (a) the registered land comprised in the charge is described by reference to the register or in any other manner sufficient to enable the registrar to identify the same without reference to any other document;
 - (b) the charge does not refer to any other interest or charge affecting the land which—
 - (i) would have priority over the same and is not registered or protected on the register;
 - (ii) is not an overriding interest.
- (3) Any provision contained in a charge which purports to—

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- (i) take away from the proprietor thereof the power of transferring it by registered disposition or of requiring the cessation thereof to be noted on the register; or
- (ii) affect any registered land or charge other than that in respect of which the charge is to be expressly registered;

shall be void.

- (4) The foregoing provisions of this paragraph shall have effect in substitution for section twenty-two of the Act of 1875.

Operation of charges.

- 4 The provisions of section one hundred and sixty-seven of the principal Act relating to the operation of charges shall be read as follows :—

- “(1) A registered charge shall, unless made or taking effect by demise or sub-demise, and subject to any provision to the contrary contained in the charge, take effect as a charge by way of legal mortgage.
- (2) Subject to the provisions of this Act, a registered charge may contain in the case of freehold land, an express demise, and in the case of leasehold land an express sub-demise of the land to the creditor for a term of years absolute, subject to a proviso for cesser on redemption.
- (3) Any such demise or subdemise or charge by way of legal mortgage shall take effect from the date of the delivery of the deed containing the same, but subject to the estate or interest of any person (other than the proprietor of the land) whose estate or interest (whenever created) is registered or noted on the register before the date of registration of the charge.
- (4) Any charge registered before the commencement of this Act shall take effect as a demise or subdemise of the land in accordance with the provisions of this Act, and the registered estate shall (without prejudice to any registered charge or any term or subterm created by a charge or by statute) vest in the person appearing by the register to be entitled to the ultimate equity of redemption.”

Implied covenant to pay and powers of chargees.

- 5 (1) The words " as well after as before any judgment is obtained in respect of the charge " shall be inserted in section twenty -three of the Act of 1875 after " appointed rate. "
- (2) For the purposes of subsections (14) and (15) of section one hundred and sixty-seven of the principal Act, an incumbrance or entry on the register shall not be deemed to be inferior to the charge in right of which title is made if the incumbrance or other interest is given the requisite priority by statute or otherwise.

Restrictive covenants.

- 6 The following words shall be inserted at the end of sub-paragraph (6) of paragraph 21 of Part J. of the Sixteenth Schedule to the principal Act—

“This provision shall authorise the proprietor in reference to the registered land to give any licence, consent or approval which a tenant for life is by the Settled Land Acts authorised to give in reference to settled land.”

Transmissions on bankruptcy.

- 7 The following section shall be substituted for section forty-three of the Act of 1875 :

Upon the bankruptcy of the proprietor of any registered land or charge, his trustee shall, on the production of the prescribed evidence to be furnished by the official receiver or trustee in bankruptcy that the estate or charge is part of the property of the bankrupt divisible amongst his creditors, be entitled to be registered as proprietor in his place. The official receiver shall be entitled to be registered pending the appointment of a trustee.”

Registration of notices of leases.

- 8 The following provision shall be inserted at the end of section fifty-one of the Act of 1875—

“Provided that where the lease is binding on the proprietor of the land neither the consent of such proprietor nor an order of the court shall be required.”

Restrictions.

- 9 The following subsections shall be inserted at the end of section fifty-eight of the Act of 1875 :—

“(2) In the case of joint proprietors the restriction may be to the effect that when the number of proprietors is reduced below a specified number, no disposition shall be registered except under an order of the court, or of the registrar after inquiry into title, subject to appeal to the court; and, subject to general rules, such an entry under this subsection as may be prescribed shall be obligatory unless it is shown to the registrar's satisfaction that the joint proprietors are entitled for their own benefit, or can give valid receipts for capital money, or that one of them is a trust corporation.

(3) Rules may be made to enable applications to be made for the entry of restrictions by persons other than the proprietor.”

Pending actions, &c.

- 10 (1) The following article shall be substituted for article (iv) of sub-paragraph (2) of paragraph 20 of Part I. of the Sixteenth Schedule to the principal Act:—

“(iv) The foregoing provisions shall apply only to writs and orders, deeds of arrangement, pending actions and land charges which if the land were unregistered would for purposes of protection be required to be registered or re-registered after the commencement of this Act under the Land Charges Acts and for the purposes of this paragraph a land charge does not include a puisne mortgage or an Inland Revenue charge.”

- (2) In sub-paragraph (1) of the said paragraph 20 the words " and to the title of the trustee in bankruptcy " shall be inserted after " fraud. "

Notice of incumbrances registered under the Companies Act.

- 11 The following paragraph shall be inserted at the end of the Sixteenth Schedule to the principal Act:—
- “12 (1) Where a company, registered under the Companies (Consolidation) Act, 1908, is registered as proprietor of any estate or charge already registered, the registrar shall not be concerned with any mortgage, charge, debenture, debenture stock, trust deed for securing the same, or other incumbrance created or issued by the company, whether or not registered under that Act, Unless it is registered or protected by caution or otherwise under the Act of 1875.
- (2) No indemnity shall be payable under the Land Transfer Acts by reason of a purchaser acquiring any interest under a registered disposition from the company free from any such incumbrance.”
- 12 (1) In subsection (4) of section one hundred and seventy-nine of the principal Act, the words " but without prejudice to " dealings with or in right of interests or charges having priority " over the estate or charge of the bankrupt proprietor " shall be inserted after " bankruptcy inhibition. "
- (2) In subsection (7) of the same section the word " petition " shall be omitted, and at the end of that subsection the words " Nothing in this section shall impose on a purchaser a liability " to make any search under the Land Charges Acts" shall be inserted.

Production of certificates.

- 13 The following sub-paragraph shall be inserted at the end of sub-paragraph (2) of paragraph 7 of Part II of the Sixteenth Schedule to the principal Act.
- “(2A) The registrar shall have the same powers of compelling the production of certificates as are conferred on him as to the production of maps and other documents.”

Effect of registration on the legal estate.

- 14 The following subsection shall be substituted for subsections (2) and (3) of section one hundred and seventy of the principal Act:—
- “(2) The proprietor of land, whether he was registered before or after the commencement of this Act, shall be deemed to have vested in him without any conveyance, where the registered land is freehold, the legal estate in fee simple in possession, and where the registered land is leasehold the legal term created by the registered lease, but subject to the overriding interests, if any, including any mortgage term or charge by way of legal mortgage created by or under this Act, or otherwise which has priority to the registered estate.”

Undivided shares.

- 15 The following section shall be substituted for subsections (1), (2) and (4) of section one hundred and sixty-four of the principal Act:—
- (1) Where in the case of land belonging to persons in undivided shares the entirety of the land is registered at the commencement of this Act, and the persons entitled to the several undivided shares are registered as proprietors,

the registrar shall, on the occasion of the first dealing affecting the title after the commencement of this Act, rectify the register by entering as the proprietors of the entirety of the land the persons in whom the legal estate therein has become vested by virtue of this Act, and it shall be the duty of the persons registered as the proprietors of the undivided shares in the land to furnish to the registrar, such evidence as he may require to enable him to ascertain the persons in whom such legal estate has become so vested as aforesaid.

- (2) Where at the commencement of this Act the title to an undivided share in land is registered but the entirety of the land is not registered, the registrar may, at any time, after giving notice to the proprietor and to the other persons (if any) who appear by the register to be interested therein, remove from the register the title to the undivided share, and such removal shall have the like effect as if it had been effected by the proprietor with the assent of such other persons as aforesaid in pursuance of the power in that behalf contained in the Act of 1897 :

Provided that, if within one year from the commencement of this Act or such extended time as the registrar may allow, and before the removal of the undivided share from the register in manner aforesaid, the persons in whom the legal estate of the entirety of the land is vested by virtue of this Act, or any persons interested in more than an undivided half of the land or the income thereof, make an application in the prescribed manner for the purpose and furnish the prescribed evidence, the registrar shall, without charging any fee, register the persons in whom such legal estate is so vested as proprietors of that estate, subject to any incumbrance capable of registration affecting the entirety of the land, but free from any charge or incumbrance (whether formerly registered or not) affecting an undivided share, and when the title to the entirety of the land is so registered, the title to the undivided share shall be closed.

- (3) If the person in whom the legal estate in the entirety of the land is so vested is the Public Trustee, he shall not be registered as proprietor pursuant to this section unless and until he has been duly requested to act in accordance with this Act, and has accepted the trust.
- (4) After the commencement of this Act, no entry other than a caution against dealings with the entirety shall be made in the register as respects the title to an undivided share in land.”

Rectification.

16 The following paragraphs shall be substituted for paragraphs (c) and (d) of subsection (1) of section one hundred and seventy-four of the principal Act:—

- “(c) Where the court or the registrar is satisfied that any entry in the register has been obtained by fraud;
- (d) Where two or more persons are, by mistake, registered as proprietors of the same registered estate or of the same charge;
- (e) Where a mortgagee has been registered as proprietor of the land instead of as proprietor of a charge and a right of redemption is subsisting;

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- (f) Where a legal estate has been registered in the name of a person who if the land had not been registered would not have been the estate owner.”

Foreshore.

17 The following section shall be substituted for section sixty-six of the Act of 1875:—

- (1) If it appears to the registrar that any land, application for registration whereof is made to him, comprises foreshore, he shall not register an estate in the land unless and until he is satisfied that at least one month's notice in writing of the application has been given to the Board of Trade, and—
- (a) in case of land in the county palatine of Lancaster, also to the proper officer of the Duchy of Lancaster; and
 - (b) in case of land in the counties of Cornwall or Devon, also to the proper officer of the Duke of Cornwall; and
 - (c) in the case of land within the jurisdiction of the Port of London Authority, also to that authority; and
 - (d) in all other cases, also to the Commissioners of Woods.
- (2) This section shall not apply to the registration of an estate with a possessory title or with a good leasehold title.”

Charitable trusts.

18 The following paragraph shall be inserted at the end of the Sixteenth Schedule to the principal Act:—

- “13 Where an application is made to register a legal estate in land subject to charitable trusts and that estate is vested in the official trustee of charity lands, he shall, notwithstanding that the powers of disposition are vested in the managing trustees or committee, be registered as proprietor thereof.”

Small holdings.

19 Subsection (2) of section thirteen of the Small Holdings and Allotments Act, 1908, is hereby repealed, and the following provisions shall have effect in lieu thereof and shall be construed with the Land Transfer Acts :—

- “(1) Where a county council apply in pursuance of the Small Holdings and Allotments Act, 1908, for registration as proprietors, they may be registered as proprietors with any such title as is authorised by the Land Transfer Acts.
- (2) Where a county council, after having been so registered, dispose of any interest in the land for the purposes of a small holding to a purchaser or lessee he shall be registered as proprietor of the interest transferred or created (being an interest capable of registration) with an absolute title, subject only to such incumbrances as may be created under the Small Holdings and Allotments Act, 1908, but freed from all other liabilities not being overriding interests, and in any such case the remedy of any person claiming by title paramount to the county council in respect either of title or incumbrances shall be in damages only, and such damages shall be recoverable against the county council.

- (3) Where under the powers conferred by subsection (4) of section twelve of the said Act, a county council by notice require registered land to be sold to themselves, the council shall, after such date as may be specified by the notice mentioned in that subsection and on production to the registrar of evidence—
- (a) of service of such notice; and
 - (b) of the payment of the sum agreed or determined in manner provided by that subsection or of the tender of such payment;
- be registered as the proprietors of the land in place of the proprietor, and such registration shall operate as a registration on a transfer for valuable consideration under the Act of 1875 as amended.
- (4) Rules under the Land Transfer Acts may—
- (a) adapt the Land Transfer Acts to the registration of small holdings with such modifications as appear to be required; and
 - (b) on the application and at the expense of a county council provide by the appointment of local agents or otherwise for the carrying into effect of the objects of this section; and
 - (c) enable the registrar to obtain production of the land certificate.
- (5) For the purposes of the foregoing provisions the expression " county council " includes " county borough council."

Minor interests.

- 20 The following sub-paragraph shall be substituted for sub-paragraph (9) of paragraph 12 of Part I. of the Sixteenth Schedule to the principal Act :—

“(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) or of an appointment or other assurance, a minor interest in the registered land, is disposed of or created which would, if registered, be capable of taking effect as a legal estate or charge by way of legal mortgage, then—

- (i) if the estate owner would, had the land not been registered, have been bound to give effect thereto by conveying or creating a legal estate or charge by way of legal mortgage, the proprietor shall, subject to proper provision being made for payment of costs, be bound to give legal effect to the transaction by a registered disposition;
- (ii) If the 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, or if, had the land not been registered, no conveyance by the estate owner would have been required to give legal effect to the transaction, the registrar shall give effect thereto in the prescribed manner in like manner and with the like consequences as if the transaction had been carried out by a registered disposition :

Provided that—

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- (a) So long as the proprietor has power under the Settled Land Acts, or any other statute conferring special powers on a tenant for life 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 proprietor holds the land on trust for sale, no estate or charge shall be registered in respect of an interest which, under this Act, 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 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.

On every alteration in the register made pursuant to this section the land certificate and any charge certificate which may be affected shall be produced to the registrar unless an order to the contrary is made by him.”

Mortgages protected on the register.

21 The following subsections shall be substituted respectively for subsections (1) and (5) of section one hundred and sixty-eight of the principal Act:—

“(1) The proprietor of any registered land may, subject to any entry to the contrary on the register, mortgage, by deed or otherwise, the land or any part thereof in any manner which would have been permissible if the land had not been registered and with- the like effect:

Provided that the registered land comprised in the mortgage is described (whether by reference to the register or in any other manner) in such a way as is sufficient to enable the registrar to identify the same without reference to any other document.”

“(5) Where a mortgage by deed has been protected by a caution in the specially prescribed form, the mortgagee, or the persons deriving title under him, may, subject to furnishing sufficient evidence of title, and notwithstanding that any interest or charge affecting the land not registered or protected on the register which has priority to the mortgage is disclosed, require the mortgage to be registered as a charge with the same priority as the caution.

Neither the registrar or any person interested under a registered disposition shall be affected with notice of any such interest or charge so disclosed.”

Vendor and purchaser.

22 The following paragraph shall be inserted at the end of subsection (1) of section one hundred and seventy-seven of the principal Act—

“(e) The purchaser shall not, by reason of the registration, be affected with notice of any pending action, writ, order, deed of arrangement or land charge (other than a local land charge) to which this paragraph applies, which can be protected under the Act of 1875 (as amended) by lodging or registering a creditor's notice, inhibition,

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caution or other notice, or be concerned to make any search therefor if and so far as they effect registered land.

This paragraph applies only to pending actions, writs, orders, deeds of arrangement and land charges (not including local land charges) required to be registered or re-registered after the commencement of this Act, either under the Land Charges Acts or any other statute registration whereunder has effect as if made under those Acts.”

Infants.

- 23 After the words " deposited at the registry " in sub-paragraph (2) of paragraph 23 of Part I. of the Sixteenth Schedule to the principal Act the words " and shall, unless and until the " tenant for life, statutory owners, personal representatives or " trustees for sale are registered as proprietors be protected by " means of a restriction or otherwise on the register " shall be inserted.

Misdemeanors.

- 24 In sections ninety-nine and one hundred of the Act of 1875 the following words shall be inserted after the words " five hundred pounds " :—
- “or on summary conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.”

Compulsory areas and the Crown.

- 25 The provisions of the Act of 1897 (as amended) relating to compulsory registration of title on sale shall bind the Crown as respects transactions completed after the commencement of the principal Act.

Duties of officers.

- 26 The following words shall be inserted at the end of section one hundred and six of the Act of 1875 :—
- “Subject to such regulations, anything authorised or required by this Act to be done to or by the registrar, may or shall be done to or by the Chief Land Registrar.”

Seal.

- 27 The following words shall be inserted at the end of section one hundred and seven of the Act of 1875 :—
- “There shall continue to be a seal of the land registry and any document purporting to be sealed with that seal shall be received in evidence without further proof.”

Rules.

- 28 The following paragraph shall be substituted for paragraph (ii) of subsection (6) of section twenty-two of the Act of 1897 :—
- “(ii) For enabling cautions to be entered against the registration of possessory and qualified titles as qualified, good

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leasehold,' or absolute or against the registration of a good leasehold title as absolute.”

Further rules.

- 29 The following sub-paragraphs shall be inserted at the end of paragraph 25 of Part I. of the Sixteenth Schedule to the principal Act:—
- “(o) For prescribing the procedure to be adopted when land is or becomes subject to any charitable, ecclesiastical or public trusts;
 - (p) For prescribing any consents to be given before a title to such land is registered ;
 - (q) For prescribing the duties, if any, to be performed by the managing trustees or committee;
 - (r) For prescribing the restrictions, if any, to be entered on the register in regard to such land; and
 - (s) For enabling entries to be made in the register on the surrender, extinguishment or discharge of any subsisting interest without previously registering the title to the interest which is merged or extinguished.”

NINTH SCHEDULE

Section 9.

Enactments affected.	How affected on the commencement of the principal Act.
1. The Inheritance Act, 1833, as amended by section nineteen of the Law of Property Amendment Act, 1859.	1. Remains in force for the purpose (so far as applicable) of ascertaining the devolution of entailed interests as equitable interests, and of ascertaining the persons who are to take equitable interests as heirs by purchase, but in other respects ceases to apply (save in the case of a lunatic or defective provided for by the principal Act) on intestacies.
2. The Lands Clauses Acts and other statutes giving powers to make title in case of persons under disability.	2. Take effect as if the references to the disabilities which have been removed had been omitted.
3. The Wills Act, 1837.	3. Takes effect to enable equitable interests to be disposed of subject and without prejudice to the estate and powers of a personal representative.
4. The Fines and Recoveries Act, 1833, as amended.	4. Remains in force in regard to dealings with entailed interests as equitable interests.
5. The Small Dwellings Acquisition Act, 1899, and other statutes prescribing the mode of effecting mortgages of land.	5. Take effect as if the modes prescribed were by charge by way of legal mortgage or by demise or subdemise, but without prejudice to any statutory power to effect mortgages by deposit of documents.

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Enactments affected.	How affected on the commencement of the principal Act.
6. All previous statutory provisions relating to the disposition of copyhold or customary lands.	6. Become obsolete.
7. All statutory provisions requiring a remainderman or reversioner to concur in a conveyance by a tenant for life or statutory owner of settled land.	7. Are inoperative as respects the transfer or creation, of a legal estate; a consent in writing by the remainderman or reversioner shall be a sufficient compliance with the statutory provision.

TENTH SCHEDULE

Section 10.

ENACTMENTS REPEALED

Session and Chapter.	Title or Short Title.	Extent of Repeal.
27 Hen. 8. c. 16.	An Acte concnyng enrolmentes of bargaines & contractes of Landes & Tenementes.	The whole Act.
31 Hen. 8.c. 1.	An Acte for joynt Tenante & Tenante in comon.	The whole Act.
32 Hen. 8. c.28.	An Acte that Lesez may enjoy their formes.	The whole Act.
32 Hen. 8.c. 32.	Jointtenaunte for lif or yeres.	The whole Act.
34 & 35 Hen. 8. c. 20.	An Acte to embarre fayned recoveries of Landes wherein the Kinges Majesthe is in revercon.	The whole Act.
5 Eliz. c. 26.	An Acte for thenrollemt of Indentures of Bar-gayne and Sale in the Quenes Mates Courtes.	The whole Act.
13 Eliz. c. 4.	An Acte to make the Landes Tenemtes Goodes and Cattalles of Tellers Receavers, etc., lyable to the payment of their Debtes.	The whole Act.
27 Eliz. c. 3.	An Act for the explanacion of the Statute made Anno xij of the Queenes Majesties Reigne intituled, An Act to make the Landes Tenementes Goodes and Chattels of Tellors Receivors, etc.,	The whole Act.

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Session and Chapter.	Title or Short Title.	Extent of Repeal.
10 Will. 3. c. 22.	liable to the payment of their Debtes. An Act to enable Posthumus Children to take Estates as if born in their Fathers Life time.	The whole Act.
4 & 5 Anne c. 3.	An Act for the Amendment of the Law and the better Advancement of Justice.	Sections twenty-one and twenty-seven.
10 Anne c. 28.	The Pleading Act, 1711.	The whole Act.
13 Anne c. 6.	The Mortuaries (Bangor, etc.) Abolition Act, 1713.	The whole Act.
25 Geo. 2. c. 39	The British Subjects Act, 1751.	The whole Act.
11 Geo. 4. & 1 Will. 4. c. 65.	The Infants' Property Act, 1830.	The whole Act.
3 & 4 Will. 4. c. 74.	The Fines and Recoveries Act, 1833.	Sections two to fourteen sixteen, eighteen, twenty-nine to thirty-one, forty-one, forty-six, fifty to fifty-four, in section fifty-eight from " and in regard to the enrolment " to " shall be effected " and sections fifty-nine, sixty-six, in section seventy-one the words " and shall in the case of " lands to be sold as " aforesaid being held by " copy of court roll " to " copyhold, and were actually purchased and " settled," from the words " which shall have no " operation under this " Act" to " after the " execution thereof," the words " and completed by " enrolment" and the words " not held by copy " of court roll," sections seventy-three, seventy-four, seventy-six, in section seventy-seven the words from " save and except " that no such disposition " to the end of that section, sections seventy-nine to ninety, and in section ninety-one the words "or of making

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Session and Chapter.	Title or Short Title.	Extent of Repeal.
2 & 3 Vict. c. 11.	The Judgments Act, 1839	a "surrender of lands held " by copy of court roll."
8 & 9 Vict. c. 106.	The Real Property Act, 1845.	Sections ten and eleven.
20 & 21 Vict. c. 57.	The Married Women's Reversionary Interests Act, 1857.	Section eight.
23 & 24 Vict. c. 38.	The Law of Property Amendment Act, 1860.	In section one the words "nor unless the deed be " acknowledged by her as " hereinafter directed " and section two.
23 & 24 Vict. c. 127.	The Solicitors Act, 1860	The whole Act, except sections six and eight.
40 & 41 Vict. c. 33.	The Contingent Remainders Act, 1877.	In section thirty the words from "and every appointment " to "married " women under that Act " and the words "or appointment" wherever they occur, and in section thirty-one the words from "and the officer of the " Court of Common " Pleas " to "for taking " the said acknowledgments " and the words "and appointments " wherever they occur.
42 & 43 Vict. c. 78.	The Supreme Court of Judicature (Officers) Act, 1879.	The whole Act.
44 & 45 Vict. c. 68.	The Supreme Court of Judicature Act, 1881.	In Schedule 1. the words "Registrar of Certificates " of acknowledgments " of deeds by married " women."
51 & 52 Vict. c. 43.	The County Courts Act, 1888.	Section twenty-six.
		Section one hundred and eighty-four.

ELEVENTH SCHEDULE

Section 11.

PART I

AMENDMENTS

Exclusion of application of s. 42 of principal Act to universities and colleges.

- 1 Notwithstanding anything in subsection (4) of section forty-six of the principal Act, section forty-two of that Act shall not apply to universities and colleges.

Extension of certain provisions of principal Act to universities and colleges.

- 2 The purposes to which capital money paid to the Minister by a university or college, and the proceeds of sale of securities representing any such money, may, with the consent of the Minister, be applied, shall include the purposes for which capital money arising under the Settled Land Acts may be applied in pursuance of the following enactments—
- (1) Section twenty-one of the Agricultural Holdings Act, 1923;
 - (2) Paragraph 2 (5) of the Tenth Schedule to the principal Act;
 - (3) Paragraph 3 (1) of the Tenth Schedule to the principal Act;
 - (4) Paragraphs (iii), (iv) and (v) of subsection (1) of section sixty-four of the principal Act.

PART II

PROVISIONS FACILITATING THE CONSOLIDATION OF THE LAW RELATING TO UNIVERSITIES AND COLLEGE ESTATES

Amendment of s. 41 of the principal Act.

- 1 The powers conferred by subsection (4) of section forty-one of the principal Act shall, in the case of a university or college, not be exercised without the consent of the Minister.

Amendment of 43 & 44 Vict. c. 46, s. 2.

- 2 The provisions of section two of the Universities and College Estates (Amendment) Act, 1880, relating to the application of purchase money of land sold, shall extend to all capital money arising under the Universities and College Estates Acts, 1858 to 1898.

Discharge of mortgages.

- 3 When money has been raised by way of mortgage made by a university or college under the enactments in that behalf, the university or college shall, in such manner as may be approved by the Minister, make provision, either by the grant of an annuity to the lender or by the creation of a sinking or redemption fund or otherwise, for

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the discharge, within such time not exceeding the maximum time allowed for the repayment of the loan as may be sanctioned by the Minister, of the money borrowed and of the payment of interest due thereon.

Extension of 3 & 4 Vict. c. 113, as amended, to canonries.

- 4 The benefices to which section sixty-nine of the Ecclesiastical Commissioners Act, 1840, as extended by section seven of the Universities and College Estates Act, 1860, applies, shall include canonries.

Power to transfer advowsons gratuitously.

- 5 It shall be lawful for a university or college to transfer gratuitously to a bishop, dean and chapter, or other ecclesiastical corporation willing to accept the same, any right of patronage belonging to the university or college.

Amendment of 21 & 22 Vict. c. 44, s. 2.

- 6 Section two of the Universities and College Estates Act, 1858, shall have effect as if for the words " or other assurance," there were substituted the words " other assurance or instrument, " and as if for the words " or mortgage" where they first occur in that section, there were substituted the words " mortgage or other transaction. "

Amendment of 61 & 62 Vict. c. 55, s. 5.

- 7 Section five of the Universities and College Estates Act, 1898, shall have effect as if for the words " or quit rent " there were substituted the words " quit rent or other periodical payment. "

Amendment of 21 & 22 Vict. c. 44, s. 29.

- 8 The Universities and College Estates Act, 1858, shall have effect as if for section twenty-nine thereof the following sections were substituted :

“(1) The powers and provisions of this Act relating to land belonging to a university or college shall extend and be applicable not only to land vested in the university or college or in any body constituted for holding land belonging to the university or college and held as the property or for the general purposes of the university or college, but also to land so vested which may be held upon any trusts, or for any special endowment or other purposes, connected with the university or college.

(2) The powers conferred by this Act on a university - or college may, as respects each particular university or college, be exercised by such body and in such manner as may be provided by the statutes regulating that university or college.”