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Hon. Mr. Conolly.

SETTLED LAND.

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A BILL INTITULED

Title.

AN ACT for facilitating Sales, Leases, and other Dispositions of settled Land, and for promoting the Execution of Improvements thereon.

BE IT ENACTED by the General Assembly of New Zealand 5
in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short Title; commencement; extent.

1. (1.) The Short Title of this Act is "The Settled Land Act, 10
1883."

(2.) This Act, except where it is otherwise expressed, shall commence and take effect from and immediately after the *thirty-first* day of *December*, one thousand eight hundred and eighty-*three*, which time is in this Act referred to as the commencement of this Act. 15

Repeals.

2. "The Leases and Sales of Settled Estates Act, 1865," and "The Leases and Sales of Settled Estates Act 1865 Amendment Act, 1879," are hereby repealed.

PART II.

DEFINITIONS.

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Definition of settlement, tenant for life, &c.

3. (1.) Any instrument, or any number of instruments, whether made 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, or any estate or interest in land, stands for the time being limited to or in trust for any persons by way of 25
succession, creates or is, for purposes of this Act, a settlement, and is in this Act referred to as a settlement, or as the settlement, as the case requires.

(2.) An estate or interest in remainder or reversion not disposed of by a settlement, and reverting to the settlor or descending to the 30
testator's legal personal representative, is, for purposes of this Act, an

estate or interest coming to the settlor or legal personal representative under or by virtue of the settlement, and comprised in the subject of the settlement.

(3.) Land, and any estate or interest therein, which is the subject of a settlement is, for purposes of this Act, settled land, and is, in relation to the settlement, referred to in this Act as the settled land.

(4.) The determination of the question whether land is settled land, for purposes of this Act, or not is governed by the state of facts and the limitations of the settlement at the time of the settlement taking effect.

(5.) The person who is for the time being, under a settlement, beneficially entitled to possession of settled land for his life is, for 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 so entitled as tenants in common, or as joint tenants, or for other concurrent estates or interests, they together constitute the tenant for life for purposes of this Act.

(7.) 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 encumbered or charged in any manner or to any extent.

(8.) The persons, if any, who are for the time being, under a settlement, trustees with power of sale of settled land, or with power of consent to or approval of the exercise of such a power of sale, or, if under a settlement there are no such trustees, then the persons, if any, for the time being who are by the settlement declared to be trustees thereof for purposes of this Act are, for purposes of this Act, trustees of the settlement.

(9.) Capital money arising under this Act, and receivable for the trusts and purposes of the settlement, is in this Act referred to as capital money arising under this Act.

(10.) In this Act—

(a.) "Land" includes incorporeal hereditaments, also an undivided share in land; "income" includes rents and profits; and "possession" includes receipt of income:

(b.) "Rent" includes yearly or other rent, and toll, duty, royalty, or other reservation, by the acre, or the ton, or otherwise; and, in relation to rent, "payment" includes delivery; and "fine" includes premium or foregift, and any payment, consideration, or benefit in the nature of a fine, premium, or foregift:

(c.) "Building purposes" includes the erecting and the improving of, and the adding to, and the repairing of buildings; and a "building lease" is a lease for any building purpose or purposes connected therewith:

(d.) "Mines" and "minerals" mean mines and minerals whether already opened or in work or not, and include all minerals and substances in, on, or under the land obtainable by underground or by surface working; and "mining purposes" include the sinking and searching for, winning, working, getting, making merchantable, smelting or other-

wise converting or working for the purposes of any manufacture, carrying away, and disposing of mines and minerals, in or under the settled land, or any other land, and the erection of buildings, and the execution of engineering and other works suitable for those purposes; and a "mining lease" is a lease for any mining purpose or purposes connected therewith, and includes a grant or license for any mining purposes: 5

- (e.) "Securities" includes stocks, funds, and shares:
 (f.) The Supreme Court of New Zealand is referred to as "the Court": 10
 (g.) "Person" includes Corporation.

PART III.

SALE ; EXCHANGE ; PARTITION.

General Powers and Regulations. 15

4. A tenant for life—

- (1.) May sell the settled land, or any part thereof, or any easement, right, or privilege of any kind over or in relation to the same; and
 (2.) May make an exchange of the settled land, or any part thereof, for other land, including an exchange in consideration of money paid for equality of exchange; and, 15
 (3.) Where the settlement comprises an undivided share in land, or, under the settlement, the settled land has come to be held in undivided shares, may concur in making partition of the entirety, including a partition in consideration of money paid for equality of partition. 20

5. (1) Every sale shall be made at the best price that can reasonably be obtained.

(2.) Every exchange and every partition shall be made for the best consideration in land, or in land and money, that can reasonably be obtained. 25

(3.) A sale may be made in one lot or in several lots, and either by auction or by private contract.

(4.) On a sale the tenant for life may fix reserve biddings and buy in at an auction. 30

(5.) A sale, exchange, or partition may be made subject to any stipulations respecting title, or evidence of title, or other things.

(6.) On a sale, exchange, or partition any restriction or reservation with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed or reserved and made binding, as far as the law permits, by covenant, condition, or otherwise, on the tenant for life and the settled land, or any part thereof, or on the other party and any land sold or given in exchange or on partition to him. 40

(7.) Settled land in New Zealand shall not be given in exchange for land out of New Zealand.

Powers to tenant for life to sell, &c.

Regulations respecting sale, enfranchisement, exchange, and partition.

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Special Powers.

6. Where, on a sale, exchange, or partition, there is an encumbrance affecting land sold or given in exchange or on partition, the tenant for life, with the consent of the encumbrancer, may charge that
5 encumbrance on any other part of the settled land, whether already charged therewith or not, in exoneration of the part sold or so given, and, by conveyance of the fee-simple or other estate or interest the subject of the settlement, or by creation of a term of years in the settled land, or otherwise, make provision accordingly.

Transfer of incumbrances on land sold, &c.

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PART IV.

LEASES.

General Powers and Regulations.

7. A tenant for life may lease the settled land, or any part thereof, or any easement, right, or privilege of any kind over or in
15 relation to the same, for any purpose whatever, whether involving waste or not, for any term not exceeding—

Power for tenant for life to lease for ordinary or building or mining purposes.

- (1.) In case of a building lease, *ninety-nine* years;
- (2.) In case of a mining lease, *sixty* years;
- (3.) In case of any other lease, *twenty-one* years.

20 8. (1.) Every lease shall be by deed, and be made to take effect in possession not later than twelve months after its date.

Regulations respecting leases generally.

(2.) Every lease shall reserve the best rent that can reasonably be obtained, regard being had to any fine taken and to any money laid out or to be laid out for the benefit of the settled land, and
25 generally to the circumstances of the case.

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

30 (4.) A counterpart of every lease shall be executed by the lessee and delivered to the tenant for life; of which execution and delivery the execution of the lease by the tenant for life shall be sufficient evidence.

(5.) A statement, contained in a lease or in an indorsement thereon, signed by the tenant for life, respecting any matter of fact or
35 of calculation under this Act in relation to the lease shall, in favour of the lessee and of those claiming under him, be sufficient evidence of the matter stated.

Building and Mining Leases.

9. (1.) Every building lease shall be made partly in consideration
40 of the lessee, or some person by whose direction the lease is granted, or some other person, having erected, or agreeing to erect, buildings, new or additional, or having improved or repaired, or agreeing to improve or repair, buildings, or having executed, or agreeing to execute, on the land leased an improvement authorized by this Act
45 for or in connection with building purposes.

Regulations respecting building leases.

(2.) A peppercorn rent or a nominal or other rent less than the rent ultimately payable may be made payable for the first *five* years or any less part of the term.

(3.) Where the land is contracted to be leased in lots the entire amount of rent to be ultimately payable may be apportioned among the lots in any manner; save that—

(a.) The annual rent reserved by any lease shall not be less than *ten* shillings; and 5

(b.) The total amount of the rents reserved on all leases for the time being granted shall not be less than the total amount of the rents which, in order that the leases may be in conformity with this Act, ought to be reserved in respect of the whole land for the time being leased; and 10

(c.) The rent reserved by any lease shall not exceed one-fifth part of the full annual value of the land comprised in that lease with the buildings thereon when completed.

10. (1.) In a mining lease—

(a.) The rent may be made to be ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of in or from the settled land, or any other land, or by or according to any facilities given in that behalf; and 15 20

(b.) A fixed or minimum rent may be made payable with or without power for the lessee, in case the rent, according to acreage or quantity, in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent. 25

(2.) A lease may be made partly in consideration of the lessee having executed, or his agreeing to execute, on the land leased an improvement authorized by this Act for or in connection with mining purposes. 30

Regulations re-
specting mining
leases.

Variation of building
or mining lease
according to circum-
stances of district.

11. (1.) Where it is shown to the Court with respect to the district in which any settled land is situate that it is difficult to make leases or grants for building or mining purposes of land therein except for a longer term or on other conditions than the term and conditions specified in that behalf in this Act, or except in perpetuity, the Court may, if it thinks fit, authorize generally the tenant for life to make from time to time leases or grants of or affecting the settled land in that district, or parts thereof, for any term, or in perpetuity, at fee-farm or other rents, secured by condition of re-entry or otherwise, as in the order of the Court expressed; or may, if it thinks fit, authorize the tenant for life to make any such lease or grant in any particular case. 35 40

(2.) Thereupon the tenant for life and, subject to any direction in the order of the Court to the contrary, each of his successors in title being a tenant for life, or having the powers of a tenant for life under this Act, may make, in any case, or in the particular case, a lease or grant of or affecting the settled land, or part thereof, in conformity with the order. 45

Part of mining rent
to be set aside.

12. Under a mining lease, whether the mines or minerals leased are already opened or in work or not, unless a contrary intention is expressed in the settlement, there shall be from time to time set aside, as capital money arising under this Act, part of the rent, as 50

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follows—namely, where the tenant for life is impeachable for waste in respect of minerals, three-fourth parts of the rent, and otherwise one-fourth part thereof; and in every such case the residue of the rent shall go as rents and profits.

Special Powers.

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13. The leasing power of a tenant for life extends to the making of— Leasing powers for special objects.

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(1.) A lease for giving effect to a contract entered into by any of his predecessors in title for making a lease which, if made by the predecessor, would have been binding on the successors in title; and

(2.) A lease for giving effect to a covenant of renewal performance whereof could be enforced against the owner for the time being of the settled land; and

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(3.) A lease for confirming, as far as may be, a previous lease, being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted, under this Act or otherwise, as the case may require.

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Surrenders.

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14. (1.) A tenant for life may accept, with or without consideration, a surrender of any lease of settled land, whether made under this Act or not, in respect of the whole land leased, or any part thereof, with or without an exception of all or any of the mines and minerals therein, or in respect of mines and minerals, or any of them. Surrender and new grant of leases.

(2.) On a surrender of a lease in respect of part only of the land or mines and minerals leased the rent may be apportioned.

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(3.) On a surrender the tenant for life may make, of the land or mines and minerals surrendered, or of any part thereof, a new or other lease, or new or other leases in lots.

(4.) A new or other lease may comprise additional land or mines and minerals, and may reserve any apportioned or other rent.

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(5.) On a surrender and the making of a new or other lease, whether for the same or for any extended or other term, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's interest in the lease surrendered may be taken into account in the determination of the amount of the rent to be reserved, and of any fine to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease.

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(6.) Every new or other lease shall be in conformity with this Act.

PART V.

SALES, LEASES, AND OTHER DISPOSITIONS.

Streets and open Spaces.

Dedication for streets, open spaces, &c.

15. On or in connection with a sale or grant for building purposes, or a building lease, the tenant for life, for the general benefit of the residents on the settled land or on any part thereof,— 5

- (1.) May cause or require any parts of the settled land to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment, of the public or of individuals, with sewers, drains, watercourses, fencing, paving, or other works necessary or proper in connection therewith; and 10
- (2.) May provide that the parts so appropriated shall be conveyed to or vested in the trustees of the settlement, or other trustees, or any company or public body, on trusts or subject to provisions for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and works aforesaid, with or without provision for appointment of new trustees when required; and 15
- (3.) May execute any general or other deed necessary or proper for giving effect to the provisions of this section, and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted. 20 25

Surface and Minerals apart.

Separate dealing with surface and minerals with or without wayleaves, &c.

16. (1.) A sale, exchange, partition, or mining lease may be made either of land, with or without an exception or reservation of all or any of the mines and minerals therein, or of any mines and minerals, and in any such case with or without a grant or reservation of powers of working, wayleaves or rights-of-way, rights of water and drainage, and other powers, easements, rights, and privileges for or incident to or connected with mining purposes, in relation to the settled land or any part thereof, or any other land. 30 35

(2.) An exchange or partition may be made subject to and in consideration of the reservation of an undivided share in mines or minerals.

Mortgage.

Mortgage for equality, money, &c.

17. Where money is required for equality of exchange or partition, the tenant for life may raise the same on mortgage of the settled land, or of any part thereof, by conveyance or transfer of the fee-simple or other estate or interest the subject of the settlement, or by creation of a term of years in the settled land, or otherwise, and the money raised shall be capital money arising under this Act. 40 45

Undivided Share.

Concurrence in exercise of powers as to undivided share.

18. Where the settled land comprises an undivided share in land, or, under the settlement, the settled land has come to be held in undivided shares, the tenant for life of an undivided share may join or 50

concur, in any manner and to any extent necessary or proper for any purpose of this Act, with any person entitled to or having power or right of disposition of or over another undivided share.

Conveyance.

- 5 **19.** (1.) On a sale, exchange, partition, lease, mortgage, or charge the tenant for life may, as regards land sold, given in exchange or on partition, leased, mortgaged, or charged, or intended so to be, including leasehold land vested in trustees, or as regards easements or other rights or privileges sold or leased, or intended so to be, 10 convey or create the same by deed, for the estate or interest the subject of the settlement, or for any less estate or interest, to the uses and in the manner requisite for giving effect to the sale, exchange, partition, lease, mortgage, or charge.
- 15 (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 this Act, is effectual to pass the land conveyed, or the easements, rights, or privileges 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 20 of—
- (a.) All estates, interests, and charges having priority to the settlement; and
- (b.) All such other, if any, estates, interests, and charges as 25 have been conveyed or created for securing money actually raised at the date of the deed; and
- (c.) All leases and grants at fee-farm rents or otherwise, and all grants of easements, rights of common, or other rights or privileges granted or made for value in money or money's worth, or agreed so to be, before the date of the deed, by 30 the tenant for life, or by any of his predecessors in title, or by any trustees for him or them, under the settlement, or under any statutory power, or being otherwise binding on the successors in title of the tenant for life.

Completion of sale, lease, &c., by conveyance.

PART VI.

35 INVESTMENT OR OTHER APPLICATION OF CAPITAL TRUST MONEY.

20. Capital money arising under this Act, subject to payment of claims properly payable thereout, and to application thereof for any special authorized object for which the same was raised, shall, when received, be invested or otherwise applied wholly in one, or partly in 40 one and partly in another or others, of the following modes,—namely,
- (1.) In investment on Government securities, or on other securities on which the trustees of the settlement are by the settlement or by law authorized to invest trust money of the settlement, or on real securities in New Zealand, with 45 power to vary the investment into or for any other such securities:

Capital money under Act; investment, &c., by trustees or Court.

- (2.) In discharge, purchase, or redemption of incumbrances affecting the inheritance of the settled land, or other the whole estate the subject of the settlement, or of any tax or quit rent charged on or payable out of the settled land :
- (3.) In payment for any improvement authorized by this Act : 5
- (4.) In payment for equality of exchange or partition of settled land :
- (5.) In purchase of the reversion or freehold in fee of any part of the settled land, being leasehold land held for years, or life, or years determinable on life : 10
- (6.) In purchase of land in fee-simple, or of copyhold or customary land, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land : 15
- (7.) In purchase, either in fee-simple or for a term of sixty years or more, of mines and minerals convenient to be held or worked with the settled land, or of any easement, right, or privilege convenient to be held with the settled land, for mining or other purposes : 20
- (8.) In payment to any person becoming absolutely entitled or empowered to give an absolute discharge :
- (9.) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers or the execution of any of the provisions of this Act : 25
- (10.) In any other mode in which money produced by the exercise of a power of sale in the settlement is applicable thereunder. 30

Regulations respecting investment, devolution, and income of securities, &c.

21. (1.) Capital money arising under this Act shall, in order to its being invested or applied as aforesaid, be paid either to the trustees of the settlement or into Court, at the option of the tenant for life, and shall be invested or applied by the trustees or under the direction of the Court, as the case may be, accordingly. 35

(2.) The investment or other application by the trustees shall be made according to the direction of the tenant for life, and, in default thereof, according to the discretion of the trustees, but in the last-mentioned case subject to any consent required or direction given by the trustees of trust money of the settlement ; and any investment shall be in the names or under the control of the trustees. 40

(3.) The investment or other application under the direction of the Court shall be made on the application of the tenant for life or of the trustees. 45

(4.) Any investment or other application shall not, during the life of the tenant for life, be altered without his consent.

(5.) Capital money arising under this Act while remaining uninvested or unapplied, and securities on which an investment of any such capital money is made, shall, for all purposes of disposition, transmission, and devolution, be considered as land, and the same shall be held for and go to the same persons successively in the 50

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same manner and for and on the same estates, interests, and trusts as the land wherefrom the money arises would, if not disposed of, have been held and have gone under the settlement.

(6.) The income of those securities shall be paid or applied as the income of that land, if not disposed of, would have been payable or applicable under the settlement.

(7.) Those securities may be converted into money, which shall be capital money arising under this Act.

22. Capital money arising under this Act from settled land in New Zealand shall not be applied in the purchase of land out of New Zealand, unless the settlement expressly authorizes the same.

Investment in land in England.

(1.) Land acquired by purchase, or in exchange, or on partition shall be made subject to the settlement in manner directed in this section.

Settlement of land purchased, taken in exchange, &c.

(2.) Freehold land shall be conveyed to the uses, on the trusts, and subject to the powers and provisions which, under the settlement, or by reason of the exercise of any power of charging therein contained, are subsisting with respect to the settled land, or as near thereto as circumstances permit, but not so as to increase or multiply charges or powers of charging.

(3.) Leasehold land shall be conveyed to and vested in the trustees of the settlement on trusts and subject to powers and provisions corresponding, as nearly as the law and circumstances permit, with the uses, trusts, powers, and provisions to, on, and subject to which freehold land is to be conveyed as aforesaid; so nevertheless that the beneficial interest in land held by lease for years shall not vest absolutely in a person who is by the settlement made by purchase tenant in tail, or in tail male, or in tail female, and who dies under the age of twenty-one years, but shall, on the death of that person under that age, go as freehold land conveyed as aforesaid would go.

(4.) Land acquired as aforesaid may be made a substituted security for any charge in respect of money actually raised, and remaining unpaid, from which the settled land, or any part thereof, or any undivided share therein, has heretofore been released on the occasion and in order to the completion of a sale, exchange, or partition.

(5.) Where a charge does not affect the whole of the settled land, then the land acquired shall not be subjected thereto, unless the land is acquired either by purchase with money arising from sale of land which was before the sale subject to the charge, or by an exchange or partition of land which, or an undivided share wherein, was before the exchange or partition subject to the charge.

(6.) On land being so acquired, any person who, by the direction of the tenant for life, so conveys the land as to subject it to any charge is not concerned to inquire whether or not it is proper that the land should be subjected to the charge.

(7.) The provisions of this section referring to land extend and apply, as far as may be, to mines and minerals, and to easements, rights, and privileges over and in relation to land.

PART VII.

IMPROVEMENTS.

Improvements with Capital Trust Money.

Description of
improvements
authorized by Act.

24. Improvements authorized by this Act are the making or execution on, or in connection with and for the benefit of, settled land of any of the following works, or of any works for any of the following purposes, and any operation incident to or necessary or proper in the execution of any of those works, or necessary or proper for carrying into effect any of those purposes, or for securing the full benefit of any of those works or purposes, namely,—
- (1.) Drainage, including the straightening, widening, or deepening of drains, streams, and watercourses : 10
 - (2.) Irrigation ; warping :
 - (3.) Drains, pipes, and machinery for supply and distribution of sewage as manure :
 - (4.) Embanking or weiring from a river or lake, or from the sea, or a tidal water : 15
 - (5.) Groynes ; sea walls ; defences against water :
 - (6.) Inclosing ; straightening of fences ; re-division of fields :
 - (7.) Reclamation ; dry warping :
 - (8.) Farm roads ; private roads ; roads or streets in villages or towns : 20
 - (9.) Clearing ; trenching ; planting :
 - (10.) Cottages for labourers, farm-servants, and artisans, employed on the settled land or not :
 - (11.) Farmhouses, offices, and outbuildings, and other buildings for farm purposes : 25
 - (12.) Saw-mills, scutch-mills, and other mills, water-wheels, engine-houses, and kilns, which will increase the value of the settled land for agricultural purposes, or as wood-land or otherwise : 30
 - (13.) Reservoirs, tanks, conduits, watercourses, pipes, wells, ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other purposes, or for domestic or other consumption : 35
 - (14.) Tramways, railways, canals, docks :
 - (15.) Jetties, piers, and landing-places on rivers, lakes, the sea, or tidal waters, for facilitating transport of persons and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes : 40
 - (16.) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connection with the conversion of land into building land : 45
 - (17.) Sewers, drains, watercourses, pipe-making, fencing, paving, brick-making, tile-making, and other works necessary or proper in connection with any of the objects aforesaid :

(18.) Trial pits for mines, and other preliminary works necessary or proper in connection with development of mines :

(19.) Reconstruction, enlargement, or improvement of any of those works.

5 **25.** (1.) Where the tenant for life is desirous that capital money arising under this Act shall be applied in or towards payment for an improvement authorized by this Act he may submit for approval to the trustees of the settlement, or to the Court, as the case may require, a scheme for the execution of the improvement, showing the proposed expenditure thereon.

Approval by Court of scheme for improvement, and payment thereon.

10 (2.) Where the capital money to be expended is in the hands of trustees, then, after a scheme is approved by them, the trustees may apply that money in or towards payment for the whole or part of any work or operation comprised in the improvement, on—

15 (a.) A certificate of a competent engineer nominated by the trustees and approved by the Court, which certificate shall be conclusive in favour of the trustees as an authority and discharge for any payment made by them in pursuance thereof; or on

20 (b.) An order of the Court directing or authorizing the trustees to so apply a specified portion of the capital money.

(3.) Where the capital money to be expended is in Court then, after a scheme is approved by the Court, the Court may, if it thinks fit, on a report or certificate of a competent engineer, approved by the Court, or on such other evidence as the Court thinks sufficient, make such order and give such directions as it thinks fit for the application of that money, or any part thereof, in or towards payment for the whole or part of any work or operation comprised in the improvement.

30 **26.** The tenant for life may join or concur with any other person interested in executing any improvement authorized by this Act, or in contributing to the cost thereof.

Concurrence in improvements.

35 **27.** (1.) The tenant for life, and each of his successors in title, having, under the settlement, a limited estate or interest only in the settled land, shall, during such period, if any, as the Court may by order in any case prescribe, maintain and repair, at his own expense, every improvement executed under the foregoing provisions of this Act, and, where a building or work in its nature insurable against damage by fire is comprised in the improvement, shall insure and keep insured the same, at his own expense, in such amount, if any, as the Court may in any case prescribe.

Obligation on tenant for life and successors to maintain, insure, &c.

40 (2.) The tenant for life, or any of his successors as aforesaid, shall not cut down or knowingly permit to be cut down, except in proper thinning, any trees planted as an improvement under the foregoing provisions of this Act.

45 (3.) The tenant for life, and each of his successors as aforesaid, shall from time to time, if required by the Court, on or without the suggestion of any person having, under the settlement, any estate or interest in the settled land in possession, remainder, or otherwise, report to the Court the state of every improvement executed under this Act, and the fact and particulars of fire insurance, if any.

(4.) The Court may vary any order made by it under this section, in such manner or to such extent as circumstances appear to it to require, but not so as to increase the liabilities of the tenant for life, or any of his successors as aforesaid.

(5.) If the tenant for life, or any of his successors as aforesaid, fails in any respect to comply with the requisitions of this section, or does any act in contravention thereof, any person having, under the settlement, any estate or interest in the settled land in possession, remainder, or reversion shall have a right of action, in respect of that default or act, against the tenant for life; and the estate of the tenant for life, after his death, shall be liable to make good to the persons entitled under the settlement any damages occasioned by that default or act.

(6.) The Court shall have full power from time to time to appoint any engineer, surveyor, or other competent person for the purpose of making any report or giving any certificate required by or under this Act, and such appointments or any of them may cancel or revoke.

Execution and Repair of Improvements.

Protection as regards waste in execution and repair of improvements.

28. The tenant for life, and each of his successors in title having, under the settlement, a limited estate or interest only in the settled land, and all persons employed by or under contract with the tenant for life, or any such successor, may from time to time enter on the settled land, and, without impeachment of waste by any remainderman or reversioner, thereon execute any improvement authorized by this Act, or inspect, maintain, and repair the same, and, for the purposes thereof on the settled land do, make, and use all acts, works, and conveniences proper for the execution, maintenance, repair, and use thereof, and get and work freestone, limestone, clay, sand, and other substances, and make tramways and other ways, and burn and make bricks, tiles, and other things, and cut down and use timber and other trees not planted or left standing for shelter or ornament.

PART VIII.

CONTRACTS.

Power for tenant for life to enter into contracts.

29. (1.) A tenant for life—
- (a.) May contract to make any sale, exchange, partition, mortgage, or charge; and
- (b.) May vary or rescind, with or without consideration, the contract, in the like cases and manner in which, if he were absolute owner of the settled land, he might lawfully vary or rescind the same, but so that the contract, as varied be in conformity with this Act; and any such consideration, if paid in money, shall be capital money arising under this Act; and
- (c.) May contract to make any lease, and in making the lease may vary the terms, with or without consideration, but so that the lease be in conformity with this Act; and

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- (d.) May accept a surrender of a contract for a lease in like manner and on the like terms in and on which he might accept a surrender of a lease, and thereupon may make a new or other contract, or new or other contracts, for or relative to a lease or leases in like manner and on the like terms in and on which he might make a new or other lease, or new or other leases, where a lease had been granted; and
- (e.) May enter into a contract for or relating to the execution of any improvement authorized by this Act, and may vary or rescind the same; and
- (f.) May, in any other case, enter into a contract to do any act for carrying into effect any of the purposes of this Act, and may vary or rescind the same.
- (2.) Every contract shall be binding on and shall endure for the benefit of the settled land, and shall be enforceable against and by every successor in title for the time being of the tenant for life, and may be carried into effect by any such successor; but so that it may be varied or rescinded by any such successor in the like case and manner, if any, as if it had been made by himself.
- (3.) The Court may, on the application of the tenant for life, or of any such successor, or of any person interested in any contract, give directions respecting the enforcing, carrying into effect, varying, or rescinding thereof.
- (4.) Any preliminary contract under this Act for or relating to a lease shall not form part of the title or evidence of the title of any person to the lease or to the benefit thereof.

PART IX.

MISCELLANEOUS PROVISIONS.

30 **30.** Where, under an Act incorporating or applying, wholly or in part, "The Lands Clauses Consolidation Act, 1863," or under "The Leases and Sales of Settled Estates Act, 1865," or under any other Act, public, local, personal, or private, money is at the commencement of this Act in Court, or is afterwards paid into Court, and is

35 liable to be laid out in the purchase of land to be made subject to a settlement, then, in addition to any mode of dealing therewith authorized by the Act under which the money is in Court, that money may be invested or applied as capital money arising under this Act, on the like terms, if any, respecting costs and other things, as

40 nearly as circumstances admit, and (notwithstanding anything in this Act) according to the same procedure as if the modes of investment or application authorized by this Act were authorized by the Act under which the money is in Court.

45 **31.** Where, under a settlement, 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 settlement, then, in addition to such powers of dealing therewith as the trustees have independently of this Act, they may, at the option of the tenant for life, invest or apply the same as capital money arising under this Act.

Application of money in Court under Lands Clauses and other Acts.

Application of money in hands of trustees under powers of settlement.

Application of
money paid for
lease or reversion.

32. Where capital money arising under this Act is purchase money paid in respect of a lease for years, or life, or years determinable on life, or in respect of any other estate or interest in land less than the fee-simple, or in respect of a reversion dependent on any such lease, estate, or interest, the trustees of the settlement, or the Court, as the case may be and, in the case of the Court, on the application of any party interested in that money), may, notwithstanding anything in this Act, require and cause the same to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees or of the Court, as the case may be, will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest, or reversion in respect whereof the money was paid, or as near thereto as may be.

Cutting and sale of
timber, and part of
proceeds to be set
aside.

33. (1.) Where a tenant for life is impeachable for waste in respect of timber, and there is on the settled land timber ripe and fit for cutting, the tenant for life, on obtaining the consent of the trustees of the settlement, or an order of the Court, may cut and sell that timber or any part thereof.

(2.) Three-fourth parts of the net proceeds of the sale shall be set aside as and be capital money arising under this Act, and the other fourth-part shall go as rents and profits.

Proceedings for
protection or
recovery of land
settled or claimed
as settled.

34. The Court may, if it thinks fit, approve of any action, defence, petition to Parliament, parliamentary opposition, or other proceeding taken or proposed to be taken for protection of settled land, or of any action or proceeding taken or proposed to be taken for recovery of land being or alleged to be subject to a settlement, and may direct that any costs, charges, or expenses incurred or to be incurred in relation thereto, or any part thereof, be paid out of property subject to the settlement.

Heirlooms.

35. (1.) Where personal chattels are settled on trust so as to devolve with land until a tenant in tail by purchase is born or attains the age of twenty-one years, or so as otherwise to vest in some person becoming entitled to an estate of freehold of inheritance in the land, a tenant for life of the land may sell the chattels or any of them.

(2.) The money arising by the sale shall be capital money arising under this Act, and shall be paid, invested, or applied and otherwise dealt with in like manner in all respects as by this Act directed with respect to other capital money arising under this Act, or may be invested in the purchase of other chattels, of the same or any other nature, which, when purchased, shall be settled and held on the same trusts and shall devolve in the same manner as the chattels sold.

(3.) A sale or purchase of chattels under this section shall not be made without an order of the Court.

PART X.

TRUSTEES.

Appointment of
trustees by Court.

36. (1.) If at any time there are no trustees of a settlement within the definition in this Act, or where, in any other case, it is expedient, for purposes of this Act, that new trustees of a settlement

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be appointed, the Court may, if it thinks fit, on the application of the tenant for life or of any other person having, under the settlement, an estate or interest in the settled land in possession, remainder, or otherwise, or, in the case of an infant, of his testamentary or other guardian or next friend, appoint fit persons to be trustees under the settlement for purposes of this Act, or, with the consent of the Public Trustee, may appoint him to be trustee of the settlement.

(2.) The persons so appointed, and the survivors and survivor of them, while continuing to be trustees or trustee, and, until the appointment of new trustees, the personal representatives or representative for the time being of the last surviving or continuing trustee, shall, for purposes of this Act, become and be the trustees or trustee of the settlement.

37. (1.) Notwithstanding anything in this Act capital money arising under this Act shall not be paid to fewer than two persons as trustees of a settlement, unless the settlement authorizes the receipt of capital trust money of the settlement by one trustee.

Number of trustees to act.

(2.) Subject thereto, the provisions of the Act referring to the trustees of a settlement apply to the surviving or continuing trustees or trustee of the settlement for the time being.

38. The receipt in writing of the trustees of a settlement, or, where one trustee is empowered to act, of one trustee, or of the personal representatives or representative of the last surviving or continuing trustee, for any money or securities paid or transferred to the trustees, trustee, representatives, or representative, as the case may be, effectually discharges the payer or transferrer therefrom, and from being bound to see to the application or being answerable for any loss or misapplication thereof, and, in case of a mortgagee or other person advancing money, from being concerned to see that any money advanced by him is wanted for any purpose of this Act, or that no more than is wanted is raised.

Trustees' receipts.

39. Each person who is for the time being trustee of a settlement is answerable for what he actually receives only, notwithstanding his signing any receipt for conformity, and in respect of his own acts, receipts, and defaults only, and is not answerable in respect of those of any other trustee, or of any banker, broker, or other person, or for the insufficiency or deficiency of any securities, or for any loss, not happening through his own wilful default.

Protection of each trustee individually.

40. The trustees of a settlement, or any of them, are not liable for giving any consent, or for not making, bringing, taking, or doing any such application, action, proceeding, or thing as they might make, bring, take, or do; and, in case of purchase of land with capital money arising under this Act, or of an exchange, partition, or lease, are not liable for adopting any contract made by the tenant for life, or bound to inquire as to the propriety of the purchase, exchange, partition, or lease, or answerable as regards any price, consideration, or fine, and are not liable to see to or answerable for the investigation of the title, or answerable for a conveyance of land if the conveyance purports to convey the land in the proper mode, or liable in respect of purchase-money paid by them by direction of the tenant for life to any person joining in the conveyance as a conveying party, or as giving a receipt for the purchase-money, or in any other character,

Protection of trustees generally.

or in respect of any other money paid by them by direction of the tenant for life on the purchase, exchange, partition, or lease.

Trustees' reimbursement.

41. The trustees of a settlement may reimburse themselves or pay and discharge out of the trust property all expenses properly incurred by them. 5

Reference of differences to Court.

42. If at any time a difference arises between a tenant for life and the trustee of the settlement respecting the exercise of any of the powers of this Act, or respecting any matter relating thereto, the Court may, on the application of either party, give such directions respecting the matter in difference, and respecting the costs of the application, as the Court thinks fit. 10

Notice to trustees.

43. (1.) A tenant for life, when intending to make a sale, exchange, partition, lease, mortgage, or charge, shall give notice of his intention in that behalf to each of the trustees of the settlement by posting registered letters containing the notice addressed to the trustees severally each at his usual or last-known place of abode in New Zealand, and shall give like notice to the solicitor for the trustees, if any such solicitor is known to the tenant for life, by posting a registered letter containing the notice addressed to the solicitor at his place of business in New Zealand, every letter under this section being posted not less than one month before the making by the tenant for life of the sale, exchange, partition, lease, mortgage, or of a contract for the same. 15

(2.) Provided that at the date of notice given the number of trustees shall not be less than two, unless a contrary intention is expressed in the settlement. 20

(3.) A person dealing in good faith with the tenant for life is not concerned to inquire respecting the giving of any such notice as is required by this section. 25

PART XI.

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COURT ; PROCEDURE.

Regulations respecting payments into Court, applications, &c.

44. (1.) Every application to the Court shall be by petition or by summons at Chambers.

(2.) Payment of money into Court effectually exonerates therefrom the person making the payment. 35

(3.) On an application by the trustees of a settlement notice shall be served in the first instance on the tenant for life.

(4.) On any application notice shall be served on such persons, if any, as the Court thinks fit.

(5.) The Court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges, or expenses of all or any of the parties to any application, and may, if it thinks fit, order that all or any of those costs, charges, or expenses be paid out of property subject to the settlement. 40

(6.) General rules for purposes of this Act shall be deemed rules of Court within section thirty-one of "The Supreme Court Act, 1882," and may be made accordingly. 45

Payment of costs out of settled property.

45. Where the Court directs that any costs, charges, or expenses be paid out of property subject to a settlement the same shall, subject and according to the directions of the Court, be raised and paid out 50

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of capital money arising under this Act, or other money liable to be laid out in the purchase of land to be made subject to the settlement, or out of investments representing such money, or out of income of any such money or investments, or out of any accumulations of income of
 5 land, money, or investments, or by means of a sale of part of the settled land in respect whereof the costs, charges, or expenses are incurred, or of other settled land comprised in the same settlement and subject to the same limitations, or by means of a mortgage of the
 10 settled land or any part thereof to be made by such person as the Court directs, and either by conveyance of the fee-simple or other estate or interest the subject of the settlement, or by creation of a term or otherwise, or by means of a charge on the settled land or any part thereof, or partly in one of those modes and partly in another or others, or in such other mode as the Court thinks fit.

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PART XII.

RESTRICTIONS, SAVINGS, AND GENERAL PROVISIONS.

46. (1.) The powers under this Act 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
 20 remain exercisable by the tenant for life after and notwithstanding any assignment, by operation of law or otherwise, of his estate or interest under the settlement.

Powers not assign-
 able; contract not
 to exercise powers
 void.

(2.) A contract by a tenant for life not to exercise any of his powers under this Act is void.

25 (3.) But this section shall operate without prejudice to the rights of any person being an assignee for value of the estate or interest of the tenant for life; and in that case the assignee's rights shall not be affected without his consent, except that, unless the assignee is
 30 actually in possession of the settled land or part thereof, 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 this Act.

35 (4.) This section extends to assignments made or coming into operation before or after and to acts done 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 encumbrance; and "assignee" has a meaning corresponding with that of assignment.

40 47. (1.) If in a settlement, will, assurance, or other instrument executed or made before or after, or partly before and partly after, the commencement of this Act a provision is inserted purporting or attempting, by way of direction, declaration, or otherwise, to forbid a
 45 tenant for life to exercise any power under this Act, or attempting, or tending, or intended, by a limitation, gift, or disposition over of settled land, or by a limitation, gift, or disposition of other real or any personal property, or by the imposition of any condition, or by forfeiture, or in any other manner whatever, to prohibit or prevent him

Prohibition or
 limitation against
 exercise of powers
 void.

from exercising, or to induce him to abstain from exercising, or to put him into a position inconsistent with his exercising, any power under this Act, that provision, as far as it purports, or attempts, or tends, or is intended to have, or would or might have, the operation aforesaid shall be deemed to be void.

(2.) For the purposes of this section an estate or interest limited to continue so long only as a person abstains from exercising any power shall be and take effect as an estate or interest to continue for the period for which it would continue if that person were to abstain from exercising the power, discharged from liability to determination or cesser by or on his exercising the same.

Provision against forfeiture.

48. Notwithstanding anything in a settlement the exercise by the tenant for life of any power under this Act shall not occasion a forfeiture.

Tenant for life trustee for all parties interested.

49. A tenant for life shall, in exercising any power under this Act, have regard to the interests of all parties entitled under the settlement, and shall, in relation to the exercise thereof by him, be deemed to be in the position and to have the duties and liabilities of a trustee for those parties.

General protection of purchasers, &c.

50. On a sale, exchange, partition, lease, mortgage, or charge a purchaser, lessee, mortgagee, or other person dealing in good faith with a tenant for life shall, as against all parties entitled under the settlement, be conclusively taken to have given the best price, consideration, or rent, as the case may require, that could reasonably be obtained by the tenant for life, and to have complied with all the requisitions of this Act.

Exercise of powers ; limitation of provisions, &c.

51. (1.) Powers and authorities conferred by this Act on a tenant for life, or trustees, or the Court are exercisable from time to time.

(2.) Where a power of sale, exchange, partition, leasing, mortgaging, charging, or other power is exercised by a tenant for life, or by the trustees of a settlement, he and they may respectively execute, make, and do all deeds, instruments, and things necessary or proper in that behalf.

(3.) Where any provision in this Act refers to sale, purchase, exchange, partition, leasing, or other dealing, or to any power, consent, payment, receipt, deed, assurance, contract, expenses, act, or transaction, the same shall be construed to extend only (unless it is otherwise expressed) to sales, purchases, exchanges, partitions, leasings, dealings, powers, consents, payments, receipts, deeds, assurances, contracts, expenses, acts, and transactions under this Act.

Saving for other powers.

52. (1.) Nothing in this Act shall take away, abridge, or prejudicially affect any power for the time being subsisting under a settlement, or by statute, or otherwise, exercisable by a tenant for life, or by trustees with his consent, or on his request, or by his direction, or otherwise ; and the powers given by this Act are cumulative.

(2.) But, in case of conflict between the provisions of a settlement and the provisions of this Act relative to any matter in respect whereof the tenant for life exercises, or contracts or intends to exercise, any power under this Act, the provisions of this Act shall prevail ; and, accordingly, notwithstanding anything in the settlement, the consent of the tenant for life shall, by virtue of this Act, be

necessary to the exercise by the trustees of the settlement or other person of any power conferred by the settlement exercisable for any purpose provided for in this Act.

(3.) If a question arise or a doubt is entertained respecting any matter within this section the Court may, on the application of the trustees of the settlement, or of the tenant for life, or of any other person interested, give its decision, opinion, advice, or direction thereon.

53. (1.) Nothing in this Act shall preclude a settlor from conferring on the tenant for life, or the trustees of the settlement, any powers additional to or larger than those conferred by this Act.

Additional or larger powers by settlement.

(2.) Any additional or larger powers so conferred shall, as far as may be, notwithstanding anything in this Act, operate and be exercisable in the like manner and with all the like incidents, effects, and consequences as if they were conferred by this Act, unless a contrary intention is expressed in the settlement.

PART XIII.

LIMITED OWNERS GENERALLY.

54. (1.) Each person as follows shall, when the estate or interest of each of them is in possession, have the powers of a tenant for life under this Act as if each of them were a tenant for life as defined in this Act (namely):—

Enumeration of other limited owners to have powers of tenant for life.

- (a.) A tenant in tail:
- 25 (b.) A tenant in fee-simple, with an executory limitation, gift, or disposition over, on failure of his issue, or in any other event:
- (c.) A person entitled to a base fee:
- (d.) A tenant for years determinable on life, not holding merely under a lease at a rent:
- 30 (e.) A tenant for the life of another, not holding merely under a lease at a rent:
- (f.) A tenant for his own or any other life, or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate, or by conditional limitation, or otherwise, or to be defeated by
- 35 an executory limitation, gift, or disposition over, or is subject to a trust for accumulation of income for payment of debts or other purpose:
- (g.) A tenant in tail after possibility of issue extinct:
- 40 (h.) A tenant by the curtesy:
- (i.) A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life, whether subject to expenses of management or not, or until sale of the land, or until forfeiture of his interest therein on bankruptcy or other event.

(2.) In every such case the provisions of this Act referring to a tenant for life, either as conferring powers on him or otherwise, and to a settlement, and to settled land shall extend to each of the persons aforesaid, and to the instrument under which his estate or interest arises, and to the land therein comprised. 5

(3.) In any such case any reference in this Act to death as regards a tenant for life shall, where necessary, be deemed to refer to the determination by death or otherwise of such estate or interest as last aforesaid. 10

PART XIV.

INFANTS; MARRIED WOMEN; LUNATICS.

Infant absolutely entitled to be as tenant for life.

55. Where a person who is in his own right seized of or entitled in possession to land is an infant then, for the purposes of this Act, the land is settled land, and the infant shall be deemed tenant for life thereof. 15

Tenant for life, infant.

56. Where a tenant for life, or a person having the powers of a tenant for life under this Act, is an infant, or an infant would, if he were of full age, be a tenant for life, or have the powers of a tenant for life under this Act, the powers of a tenant for life under this Act may be exercised on his behalf by the trustees of the settlement, and if there are none then by such person and in such manner as the Court, on the application of a testamentary or other guardian or next friend of the infant, either generally or in a particular instance, orders. 20

Married woman, how to be affected.

57. (1.) The foregoing provisions of this Act do not apply in the case of a married woman. 25

(2.) Where a married woman who, if she had not been a married woman, would have been a tenant for life, or would have had the powers of a tenant for life under the foregoing provisions of this Act, is entitled for her separate use, or is entitled under any statute, passed or to be passed, for her separate property, or as a *feme sole*, then she, without her husband, shall have the powers of a tenant for life under this Act. 30

(3.) Where she is entitled otherwise than as aforesaid, then she and her husband together shall have the powers of a tenant for life under this Act. 35

(4.) The provisions of this Act referring to a tenant for life and a settlement and settled land shall extend to the married woman without her husband, or to her and her husband together, as the case may require, and to the instrument under which her estate or interest arises, and to the land therein comprised. 40

(5.) The married woman may execute, make, and do all deeds, instruments, and things necessary or proper for giving effect to the provisions of this section. 45

(6.) A restraint on anticipation in the settlement shall not prevent the exercise by her of any power under this Act. 45

Tenant for life, lunatic.

58. Where a tenant for life, or a person having the powers of a tenant for life under this Act, is a lunatic, so found by inquisition, the committee of his estate may, in his name and on his behalf, under an order of the Court, exercise the powers of a tenant for life under this Act; and the order may be made on the petition of any person interested in the settled land, or of the committee of the estate. 50

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PART XV.

SETTLEMENT BY WAY OF TRUSTS FOR SALE.

59. (1.) Any land, or any estate or interest in land, which under or by virtue of any deed, will, or agreement, covenant to surrender, Act of the General Assembly, 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, is subject to a trust or direction for sale of that land, estate, or interest, and for the application or disposal of the money to arise from the sale, or the income of that money, or the income of the land until sale, or any part of that money or income, for the benefit of any person for his life, or any other limited period, or for the benefit of two or more persons concurrently for any limited period, and whether absolutely, or subject to a trust for accumulation of income for payment of debts or other purpose, or to any other restriction, shall be deemed to be settled land, and the instrument or instruments under which the trust arises shall be deemed to be a settlement.

Provision for case of trust to sell and reinvest in land.

And the person for the time being beneficially entitled to the income of the land, estate, or interest aforesaid until sale, whether absolutely or subject as aforesaid, shall be deemed to be tenant for life thereof; or if two or more persons are so entitled concurrently, then those persons shall be deemed to constitute together the tenant for life thereof; and the persons, if any, who are for the time being under the settlement trustees for sale of the settled land, or having power of consent to, or approval of, or control over the sale, or if under the settlement there are no such trustees then the persons, if any, for the time being who are by the settlement declared to be trustees thereof for purposes of this Act are for purposes of this Act trustees of the settlement.

(2.) In every such case the provisions of this Act referring to a tenant for life, and to a settlement, and to settled land, shall extend to the person or persons aforesaid, and to the instrument or instruments under which his or their estate or interest arises, and to the land therein comprised, subject and except as in this section provided (that is to say),—

(a.) Any reference in this Act to the predecessors or successors in title of the tenant for life, or to the remaindermen, or reversioners or other persons interested in the settled land, shall be deemed to refer to the persons interested in succession or otherwise in the money to arise from sale of the land, or the income of that money, or the income of the land, until sale (as the case may require).

(b.) Capital money arising under this Act from the settled land shall not be applied in the purchase of land unless such application is authorized by the settlement in the case of capital money arising thereunder from sales or other dispositions of the settled land, but may, in addition to any other mode of application authorized by this Act, be applied in any mode in which capital money arising under

the settlement from any such sale or other disposition is applicable thereunder, subject to any consent required or direction given by the settlement with respect to the application of trust money of the settlement.

- (c.) Capital money arising under this Act from the settled land and the securities in which the same is invested shall not, for any purpose of disposition, transmission, or devolution, be considered as land unless the same would, if arising under the settlement from a sale or disposition of the settled land, have been so considered, and the same shall be held in trust for and shall go to the same persons successively in the same manner and for and on the same estates, interests, and trusts as the same would have gone and been held if arising under the settlement from a sale or disposition of the settled land, and the income of such capital money and securities shall be paid or applied accordingly. 5 10 15
- (d.) Land of whatever tenure acquired under this Act, by purchase, or in exchange, or on partition, shall be conveyed to and vested in the trustees of the settlement on the trusts and subject to the powers and provisions which, under the settlement or by reason of the exercise of any power of appointment or charging therein contained, are subsisting with respect to the settled land, or would be so subsisting if the same had not been sold, or as near thereto as circumstances permit, but so as not to increase or multiply charges or powers of charging. 20 25