

Legislative Council.

45<sup>o</sup> VICTORIÆ, 1881.

# A BILL

To facilitate Leases and Sales of Settled Estates.

[MR. DARLEY;—27 October, 1881.]

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

5 1. This Act may be cited for all purposes as the "Settled Estates Act 1881." Short title.  
40 & 41 Vic. c. 18.

2. The word "settlement" as used in this Act shall signify any Act of Parliament deed agreement will or other instrument or any number of such instruments under or by virtue of which any hereditaments of any tenure or any estates or interests in any such hereditaments stand limited to or in trust for any persons by way of succession including any such instruments affecting the estates of any one or more of such persons exclusively. The term "settled estates" as used in this Act shall signify all hereditaments of any tenure and all estates or interests in any such hereditaments which are the subject of a settlement and for the purposes of this Act a tenant-in-tail after possibility of issue extinct shall be deemed to be a tenant for life. All estates or interests in remainder or reversion not disposed of by the settlement and reverting to a settlor or descending to the heir of a testator shall be deemed to be estates coming to such settlor or heir under or by virtue of the settlement. In determining what are settled estates within the meaning of this Act the Court shall be governed by the state of facts and by the trusts or limitations of the settlement at the time of the said settlement taking effect. Interpretation of  
"settlement" and  
"settled estates."



Interpretation of  
"the Court."

3. The expression "the Court" in this Act shall mean the Primary Judge in Equity whose decision thereunder shall be subject to appeal and in case of appeal the expression "the Court" shall mean the Supreme Court of New South Wales in its Equitable jurisdiction.

Power to authorise  
leases of settled  
estates.

4. It shall be lawful for the Court if it shall deem it proper and consistent with a due regard for the interest of all parties entitled under settlement and subject to the provisions and restrictions in this Act contained to authorise leases of any settled estates or of any rights or privileges over or affecting any settled estates for any purpose whatsoever whether involving waste or not provided the following conditions be observed :

First. Every such lease shall be made to take effect in possession at or within one year next after the making thereof and shall be for a term of years not exceeding for an agricultural or occupation lease twenty-one years and for a mining lease or a lease of water-mills way-leaves water-leaves or other rights or easements forty years and for a repairing lease sixty years and for a building lease ninety-nine years Provided always that any such lease (except an agricultural lease) may be for such term of years as the Court shall direct where the Court shall be satisfied that it is the usual custom of the district and beneficial to the inheritance to grant such a lease for a longer term than the term hereinbefore specified in that behalf.

Secondly. On every such lease shall be reserved the best rent or reservation in the nature of rent either uniform or not that can be reasonably obtained to be made payable half-yearly or oftener without taking any fine or other benefit in the nature of a fine Provided always that in the case of a mining lease a repairing lease or a building lease a peppercorn rent or any smaller rent than the rent to be ultimately made payable may if the Court shall think fit so to direct be made payable during all or any part of the first five years of the term of the lease.

Thirdly. Where the lease is of any earth coal stone or mineral a certain portion of the whole rent or payment reserved shall be from time to time set aside and invested as hereinafter mentioned namely when and so long as the person for the time being entitled to the receipt of such rent is a person who by reason of his estate or by virtue of any declaration in the settlement is entitled to work such earth coal stone or mineral for his own benefit one-fourth part of such rent and otherwise three-fourth parts thereof and in every such lease sufficient provision shall be made to ensure such application of the aforesaid portion of the rent by the appointment of trustees or otherwise as the Court shall deem expedient.

Fourthly. No such lease shall authorise the felling of any trees except so far as shall be necessary for the purpose of clearing the ground for any buildings excavations or other works authorized by the lease.

Fifthly. Every such lease shall be by deed and the lessee shall execute a counterpart thereof and every such lease shall contain a condition for re-entry on non-payment of the rent for a period of twenty-eight days after it becomes due or for some less period to be specified in that behalf.

Leases may contain  
special covenants.

5. Subject and in addition to the conditions hereinbefore mentioned every such lease shall contain such covenants conditions and stipulations as the Court shall deem expedient with reference to the special circumstances of the demise.



6. The power to authorize leases conferred by this Act shall extend to authorize leases either of the whole or any parts of the settled estates and may be exercised from time to time.

Parts of settled estates may be leased.

7. Any leases whether granted in pursuance of this Act or otherwise may be surrendered either for the purpose of obtaining a renewal of the same or not and the power to authorize leases conferred by this Act shall extend to authorize new leases of the whole or any part of the hereditaments comprised in any surrendered lease.

Leases may be surrendered and renewed.

8. The power to authorize leases conferred by this Act shall extend to authorise preliminary contracts to grant any such leases and any of the terms of such contracts may be varied in the leases.

Power to authorize leases to extend to preliminary contracts.

9. The power to authorize leases conferred by this Act may be exercised by the Court either by approving of particular leases or by ordering that powers of leasing in conformity with the provisions of this Act shall be vested in Trustees in manner hereinafter mentioned.

Mode in which leases may be authorized.

10. When application is made to the Court either to approve of a particular lease or to vest any powers of leasing in Trustees the Court shall require the applicant to produce such evidence as it shall deem sufficient to enable it to ascertain the nature value and circumstances of the estate and the terms and conditions on which leases thereof ought to be authorized.

What evidence to be produced on an application to authorize leases.

11. When a particular lease or contract for a lease has been approved by the Court the Court shall direct what person or persons shall execute the same as lessor and the lease or contract executed by such person or persons shall take effect in all respects as if he or they was or were at the time of execution thereof absolutely entitled to the whole estate or interest which is bound by the settlement and had immediately afterwards settled the same according to the settlement and so as to operate (if necessary) by way of revocation and appointment of the use or otherwise as the Court shall direct.

After approval of a lease Court to direct who shall be the lessor.

12. Where the Court shall deem it expedient that any general powers of leasing any settled estates conformably to this Act should be vested in Trustees it may by order vest any such power accordingly either in the existing Trustees of the settlement or in any other persons and such powers when exercised by such Trustees shall take effect in all respects as if the power so vested in them had been originally contained in the settlement and so as to operate (if necessary) by way of revocation and appointment of the use or otherwise as the Court shall direct and in every such case the Court if it shall think fit may impose any conditions as to consents or otherwise on the exercise of such power and the Court may also authorise the insertion of provisions for the appointment of new Trustees from time to time for the purpose of exercising such powers of leasing as aforesaid.

Powers of leasing may be vested in Trustees.

13. Provided always that in orders under this Act for vesting any powers of leasing in any Trustees or other persons no conditions shall be inserted requiring that the leases thereby authorised should be submitted to or be settled by the Court or be made conformable with a model lease deposited in the chambers of the Primary Judge save only in any case in which the parties applying for the order may desire to have any such condition inserted or in which it shall appear to the Court that there is some special reason rendering the insertion of such a condition necessary or expedient.

Conditions that leases be settled by the Court not to be inserted in orders made under this Act.

14. Provided also that in all cases of orders (whether under this Act or under the corresponding enactment of the Acts hereby repealed) in which any such condition as last aforesaid shall have been inserted it shall be lawful for any party interested to apply to the Court to alter and amend such order by striking out such condition and the Court shall have full power to alter the same accordingly and the order so altered shall have the same validity as if it

Conditions where inserted may be struck out.



it had originally been made in its altered state but nothing herein contained shall make it obligatory on the Court to act under this provision in any case in which from the evidence which was before it when the order sought to be altered was made or from any other evidence it shall appear to the Court that there is any special reason 5 why in the case in question such a condition is necessary or expedient.

Court may authorise sales of settled estates and of timber.

15. It shall be lawful for the Court if it shall deem it proper and consistent with a due regard for the interests of all parties entitled under the settlement and subject to the provisions and restrictions in this Act contained from time to time to authorise a sale of the whole 10 or any parts of any settled estates or of any timber (not being ornamental timber) growing on any settled estates and every such sale shall be conducted and confirmed in the same manner as by the rules and practice of the Court for the time being is or shall be required in the sale of lands sold under a decree of the Court. 15

Proceedings for protection.

16. It shall be lawful for the Court if it shall deem it proper and consistent with a due regard for the interests of all parties who are or may hereafter be entitled under the settlement and subject to the provisions and restrictions in this Act contained to sanction any action defence petition to Parliament parliamentary opposition or other 20 proceedings appearing to the Court necessary for the protection of any settled estate and to order that all or any part of the costs and expenses in relation thereto be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate or be raised and paid out of the rents and profits of the settled estate or out 25 of any moneys or investments representing moneys liable to be laid out in the purchase of hereditaments to be settled in the same manner as the settled estate or out of the income of such moneys or investments or out of any accumulations of rents profits or income.

Consideration for land sold for building may be a fee farm rent.

17. When any land is sold for building purposes it shall be 30 lawful for the Court if it shall see fit to allow the whole or any part of the consideration to be a rent issuing out of such land which may be secured and settled in such a manner as the Court shall approve.

Minerals &c. may be excepted from sales.

18. On any sale of land any earth coal stone or mineral may be excepted and any rights or privileges may be reserved and the 35 purchaser may be required to enter into any covenants or submit to any restrictions which the Court may deem advisable.

Court may authorize dedication of any part of settled estates for streets roads and other works.

19. It shall be lawful for the Court if it shall deem it proper and consistent with a due regard for the interests of all parties entitled under the settlement and subject to the provisions and restrictions in 40 this Act contained from time to time to direct that any part of any settled estates be laid out for streets roads paths squares gardens or other open spaces sewers drains or watercourses either to be dedicated to the public or not and the Court may direct that the parts so laid out shall remain vested in the Trustees of the settlement or be con- 45 veyed to or vested in any other Trustees upon such trusts for securing the continued appropriation thereof to the purposes aforesaid in all respects and with such provisions for the appointment of new Trustees when required as by the Court shall be deemed advisable.

As to laying out and making and executing and maintaining streets roads and other works and expenses thereof.

20. Where any part of any settled estates is directed to be laid 50 out for such purposes as aforesaid the Court may direct that any such streets roads paths squares gardens or other open spaces sewers drains or watercourses including all necessary or proper fences pavings connexions and other works incidental thereto respectively be made and executed and that all or any part of the expenses in relation to such 55 laying out and making and execution be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estates or be raised and paid out of the rents and profits of the settled estates or any part thereof or out of any moneys or investments representing



senting moneys liable to be laid out in the purchase of hereditaments to be settled in the same manner as the settled estates or out of the income of such moneys or investments or out of any accumulations of rents profits or income and the Court may also give such directions as  
 5 it may deem advisable for any repair or maintenance of any such streets roads paths squares gardens or other open spaces sewers drains or watercourses or other works out of any such rents profits income or accumulations during such period or periods of time as to the Court shall seem advisable.

10 21. On every sale or dedication to be effected as hereinbefore mentioned the Court may direct what person or persons shall execute the deed of conveyance and the deed executed by such person or persons shall take effect as if the settlement had contained a power enabling such person or persons to effect such sale or dedication and  
 15 so as to operate (if necessary) by way of revocation and appointment of the use or otherwise as the Court shall direct.

How sales and dedications are to be effected under the direction of the Court.

22. Any person entitled to the possession or to the receipt of the rents and profits of any settled estates for a term of years determinable on his death or for an estate for life or any greater estate and  
 20 also any person entitled to the possession or to the receipt of the rents and profits of any settled estates as the assignee of any person who but for such assignment would be entitled to such estates for a term of years determinable with any life or for an estate for any life or any greater estate may apply to the Court by petition in a summary way  
 25 to exercise the powers conferred by this Act.

Application by petition to exercise powers conferred by this Act.

23. Subject to the exceptions hereinafter contained every application to the Court must be made with the concurrence or consent of the following parties viz. :—

With whose consent such application to be made.

Where there is a tenant-in-tail under the settlement in existence and  
 30 of full age then the parties to concur or consent shall be such tenant-in-tail or if there is more than one such tenant-in-tail then the first of such tenants-in-tail and all persons in existence having any beneficial estate or interest under or by virtue of the settlement prior to the estate of such tenant-in-tail  
 35 and all Trustees having any estate or interest on behalf of any unborn child prior to the estate of such tenant-in-tail And in every other case the parties to concur or consent shall be all the persons in existence having any beneficial estate or interest under or by virtue of the settlement and also all  
 40 Trustees having any estate or interest on behalf of any unborn child.

24. Provided always that where an infant is tenant-in-tail under the settlement it shall be lawful for the Court if it shall think fit to dispense with the concurrence or consent of the person if only  
 45 one or all or any of the persons if more than one entitled whether beneficially or otherwise to any estate or interest subsequent to the estate tail of such infant.

Court may dispense with consent in respect of certain estates.

25. Provided always that where on an application under this Act the concurrence or consent of any such person as aforesaid shall  
 50 not have been obtained notice shall be given to such person in such manner as the Court to which the application shall be made shall direct requiring him to notify within a time to be specified in such notice whether he assents to or dissents from such application or submits his rights or interests so far as they may be affected by such  
 55 application to be dealt with by the Court and every such notice shall specify to whom and in what manner such notification is to be delivered or left In case no notification shall be delivered or left in accordance with the notice and within the time thereby limited the person

Notice to be given to persons who do not consent to or concur in the application.



person to or for whom such notice shall have been given or left shall be deemed to have submitted his rights and interests to be dealt with by the Court.

Court may dispense with notice under certain circumstances.

26. Provided also that where on an application under this Act the concurrence or consent of any such person as aforesaid shall not have been obtained and in case such person cannot be found or in case it shall be uncertain whether he be living or dead or in case it shall appear to the Court that such notice as aforesaid cannot be given to such person without expense disproportionate to the value of the subject matter of the application then and in any such case the Court if it shall think fit either on the ground of the rights or interests of such person being small or remote or being similar to the rights or interests of any other person or persons or on any other ground may by order dispense with notice to such person and such person shall thereupon be deemed to have submitted his rights and interests to be dealt with by the Court.

Court may dispense with consent having regard to the number and interests of parties.

27. An order may be made upon any application notwithstanding that the concurrence or consent of any such person as aforesaid shall not have been obtained or shall have been refused but the Court in considering the application shall have regard to the number of persons who concur in or consent to the application and who dissent therefrom or who submit or are to be deemed to submit their rights or interests to be dealt with by the Court and to the estates or interests which such persons respectively have or claim to have in the estate as to which such application is made and every order of the Court made upon such application shall have the same effect as if all such persons had been consenting parties thereto.

Petition may be granted without consent saving rights of non-consenting parties.

28. Provided nevertheless that it shall be lawful for the Court if it shall think fit to give effect to any petition subject to and so as not to affect the rights estates or interest of any person whose concurrence or consent has been refused or who has not submitted or is not deemed to have submitted his rights or interests to be dealt with by the Court or whose rights estate or interest ought in the opinion of the Court to be excepted.

Notice of application to be served on all Trustees &c.

29. Notice of any application to the Court under this Act shall be served on all trustees who are seised or possessed of any estate in trust for any person whose consent or concurrence to or in the application is hereby required or on any other parties who in the opinion of the Court ought to be so served unless the Court shall think fit to dispense with such notice.

Notice of application to be given in newspapers if Court direct.

30. Notice of any application to the Court under this Act shall if the Court shall so direct but not otherwise be inserted in such newspapers as the Court shall direct and any person or body corporate whether interested in the estate or not may apply to the Court by motion for leave to be heard in opposition to or in support of any application which may be made to the Court under this Act and the Court is hereby authorized to permit such person or corporation to appear and be heard in opposition to or support of any such application on such terms as to costs or otherwise and in such manner as it shall think fit.

Notice of the exercise of powers to be given as directed by the Court.

31. The Court shall direct that some sufficient notice of any exercise of any of the powers conferred on it by this Act shall be placed on the settlement or on any copies thereof or otherwise recorded in any way it may think proper in all cases where it shall appear to the Court to be practicable and expedient for preventing fraud or mistake.

Payment and application of moneys arising from sales or set aside out of rent &c. reserved on mining leases.

32. All money to be received on any sale effected under the authority of this Act or to be set aside out of the rent or payments reserved on any lease of earth coal stone or minerals as aforesaid may if the Court shall think fit be paid to any trustees of whom it shall

approve



approve or otherwise the same shall be paid into Court *ex parte* the applicant in the matter of this Act and such money shall be applied as the Court shall from time to time direct to some one or more of the following purposes namely—

- 5 (1.) The discharge or redemption of any incumbrance affecting the hereditaments in respect of which such money was paid or affecting any other hereditaments subject to the same uses or trusts or
- 10 (2.) The purchase of other hereditaments to be settled in the same manner as the hereditaments in respect of which the money was paid or
- (3.) The payment to any person becoming absolutely entitled.

33. The application of the money in manner aforesaid may if the Court shall so direct be made by the trustees (if any) without any application to the Court or otherwise upon an order of the Court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money has been invested in the purchase of land.

Trustees may apply moneys in certain cases without application to Court.

34. Until the money can be applied as aforesaid the same shall be invested as the Court shall direct in some or one of the investments in which cash under the control of the Court is for the time being authorized to be invested and the interest and dividends of such investments shall be paid to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land.

Until money can be applied to be invested and dividends to be paid to parties entitled.

35. Where any purchase money paid into Court under the provisions of this Act shall have been paid in respect of any lease for a life or lives or years or for a life or lives and years or any estate in lands less than the whole fee thereof or of any reversion dependent on any such lease or estate it shall be lawful for the Court on the petition of any party interested in such money to order that the same shall be laid out invested accumulated and paid in such manner as the Court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease estate or reversion in respect of which such money shall have been paid or as near thereto as may be.

Court may direct application of money in respect of leases or reversions as may appear just.

36. The Court shall be at liberty to exercise any of the powers conferred on it by this Act whether the Court shall have already exercised any of the powers conferred by this Act in respect of the same property or not but no such powers shall be exercised if an express declaration that they shall not be exercised is contained in the settlement: Provided always that the circumstance of the settlement containing powers to effect similar purposes shall not preclude the Court from exercising any of the powers conferred by this Act if it shall think that the powers contained in the settlement ought to be extended.

Court may exercise powers repeatedly but may not exercise them if expressly negatived.

37. Nothing in this Act shall be construed to empower the Court to authorize any lease sale or other act beyond the extent to which in the opinion of the Court the same might have been authorized in and by the settlement by the settlor or settlors.

Court not to authorize any Act which could not have been authorized by the settlor.

38. After the completion of any lease or sale or other act under the authority of the Court and purporting to be in pursuance of this Act the same shall not be invalidated on the ground that the Court was not hereby empowered to authorize the same except that no such lease sale or other act shall have any effect against such person as herein mentioned whose concurrence or consent ought to be obtained or who ought to be served with notice or in respect of whom an order dispensing with such service ought to be obtained in the case where such concurrence or consent has not been obtained and such service has not been made or dispensed with.

Acts of the Court in professed pursuance of this Act not to be invalidated.



Costs.

39. It shall be lawful for the Court if it shall think fit to order that all or any costs or expenses of all or any parties of and incident to any application under this Act shall be a charge on the hereditaments which are the subject of the application or on any other hereditaments included in the same settlement and subject to the same limitations and the Court may also direct that such costs and expenses shall be raised by sale or mortgage of a sufficient part of such hereditaments or out of the rents and profits thereof such costs and expenses to be taxed as the Court shall direct. 5

Rules and orders.

40. General rules and orders of Court for carrying into effect the purposes of this Act and for regulating the times and form and mode of procedure and generally the practice of the Court in respect of the matters to which this Act relates and for regulating the fees and allowances to all officers and solicitors of the Court in respect to such matters shall be made by the Judges of the Supreme Court and such rules and orders may from time to time be rescinded or altered by the like authority and all such rules and orders shall take effect as general orders of the Court. 10 15

Rules and orders to be laid before Parliament.

41. All general rules and orders made as aforesaid shall be laid before each House of Parliament within forty days after the making thereof if Parliament is then sitting or if not within twenty days after the commencement of the then next ensuing session and if an address is presented to His Excellency the Governor by either House of Parliament within the next subsequent forty days on which the said House shall have sat praying that any such rule or order may be annulled the Governor with the advice of the Executive Council may thereupon annul the same and the rule or order so annulled shall thenceforth become void and of no effect but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same. 20 25 30

Tenants for life &amp;c. may grant leases for twenty-one years.

42. It shall be lawful for any person entitled to the possession or to the receipt of the rents and profits of any settled estates for any estate for any life or for a term of years determinable with any life or lives or for any greater estate either in his own right or in right of his wife unless the settlement shall contain an express declaration that it shall not be lawful for such person to make such demise and also for any person entitled to the possession or to the receipt of the rents and profits of any unsettled estates as tenant by the courtesy or in dower or in right of a wife who is seized in fee without any application to the Court to demise the same or any part thereof except the principal mansion house and the demesnes thereof and other lands usually occupied therewith from time to time for any term not exceeding twenty-one years to take effect in possession at or within one year next after the making thereof Provided that every such demise be made by deed and the best rent that can reasonably be obtained be thereby reserved without any fine or other benefit in the nature of a fine which rent shall be incident to the immediate reversion and provided that such demise be not made without impeachment of waste and do contain a covenant for payment of the rent and such other usual and proper covenants as the lessor shall think fit and also a condition of re-entry on nonpayment of the rent for a period of twenty-eight days after it becomes due or for some less period to be specified in that behalf and provided a counterpart of every deed of lease be executed by the lessee. 35 40 45 50

Against whom such leases be valid.

43. Every demise authorised by the last preceding section shall be valid against the person granting the same and all other persons entitled to estates subsequent to the estate of such person under or by virtue of the same settlement if the estates be settled and in the case of unsettled estates against the wife of any husband granting such demise of estates to which he is entitled in right of such wife and against all persons claiming through or under the wife or husband (as the case may be) of the person granting the same. 55 60 44.



44. The execution of any lease by the lessor or lessors shall be deemed sufficient evidence that a counterpart of such lease has been duly executed by the lessee as required by this Act. Evidence of execution of counterpart lease by lessee.

45. All powers given by this Act and all applications to the Court under this Act and consents to and notifications respecting such applications may be executed made or given by and all notices under this Act may be given to guardians on behalf of infants and by or to committees on behalf of lunatics and by or to trustees of the property of debtors in liquidation or assignees of insolvents. Provided nevertheless that in the cases of infant or lunatic tenants-in-tail no application to the Court or consent to or notification respecting any application may be made or given by any guardian or committee without the special direction of the Court. Provision as to infants lunatics &c.

46. Where a married woman shall apply to the Court or consent to an application to the Court under this Act she shall first be examined apart from her husband touching her knowledge of the nature and effect of the application and it shall be ascertained that she freely desires to make or consent to such application and such examination shall be made whether the hereditaments which are the subject of the application shall be settled in trust for the separate use of such married woman independently of her husband or not and no clause or provision in any settlement restraining anticipation shall prevent the Court from exercising if it shall think fit any of the powers given by this Act and no such exercise shall occasion any forfeiture anything in the settlement contained to the contrary notwithstanding. A married woman applying to the Court or consenting to be examined apart from her husband.

47. The examination of such married woman when resident within the jurisdiction of the Court to which such application is made shall be made either by the Court or by some solicitor duly appointed by the Court for that purpose who shall certify under his hand that he has examined her apart from her husband and is satisfied that she is aware of the nature and effect of the intended application and that she freely desires to make or consent to the same. And when the married woman is resident out of the jurisdiction of the Court to which such application is made her examination may be made by any person appointed for that purpose by the Court whether he is or is not a solicitor of the Court and such person shall certify under his hand to the effect hereinbefore provided in respect of the examination of a married woman resident within the jurisdiction. And the appointment of any such person not being a solicitor shall afford conclusive evidence that the married woman was at the time of such examination resident out of the jurisdiction of the Court. Examination of married woman how to be made when residing within the jurisdiction of the Court and how when residing without such jurisdiction.

48. Subject to such examination as aforesaid married women may make or consent to any applications whether they be of full age or infants. As to application by or consent of married women whether of full age or under age.

49. Nothing in this Act shall be construed to create any obligation on any person to make or consent to any application to the Court or to exercise any power. No obligation to make or consent to application &c.

50. For the purposes of this Act a person shall be deemed to be entitled to the possession or to the receipt of the rents and profits of estates although his estate may be charged or incumbered either by himself or by the settlor or otherwise howsoever to any extent but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and profits as aforesaid unless they shall concur therein. Tenants for life &c. to be deemed entitled notwithstanding encumbrances.

51. This Act shall commence on the first day of January one thousand eight hundred and eighty-two. Commencement of Act.



