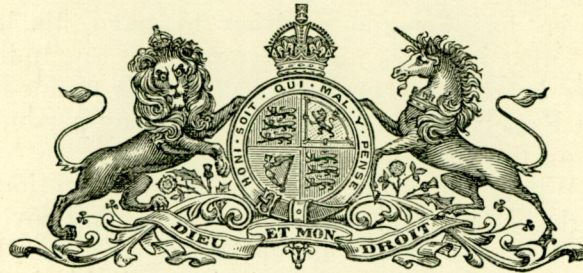


# New South Wales.



ANNO QUINTO

## EDWARDI VII REGIS.

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### Act No. 8, 1905.

An Act to grant relief against the exercise of rights of re-entry and forfeiture under leases, and against defects invalidating certain leases; to amend the Forfeiture of Leases Act of 1901; and for other purposes. [Assented to, 21st August, 1905.]

**B**E it enacted by the King'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:—

#### PART I.

##### PRELIMINARY.

1. This Act may be cited as the "Forfeiture and Validation of Short title. Leases Act, 1905."

2. This Act is divided into Parts, as follows:—

Division of Act.

PART I.—PRELIMINARY—*ss.* 1, 2.

PART II.—FORFEITURE OF LEASES—*ss.* 3-5.

PART III.—INVALID LEASES UNDER POWERS—*ss.* 6-12

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PART

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*Forfeiture and Validation of Leases.*


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## PART II.

## FORFEITURE OF LEASES.

Incorporation of  
Act of 1901.

**3.** This Part of this Act shall be construed with the Forfeiture of Leases Act of 1901.

Definitions.

55 & 56 Vic. c. 13,  
s. 5.

**4.** In this Part of this Act and in section one of the Forfeiture of Leases Act of 1901 "lease" also includes an agreement for a lease where the lessee has become entitled to have his lease granted; "under-lease" also includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted; and in the said Part "under-lessee" includes any person deriving title under or from an under-lessee.

Power of court to  
protect under-lessees  
on forfeiture of  
superior leases.  
55 & 56 Vic. c. 13,  
s. 4.

**5.** (1) Where a lessor is proceeding by suit, action, or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, made either before or after the commencement of this Act, the Supreme Court in its equitable jurisdiction may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, make an order staying any such suit, action, or other proceeding on such terms as to the Court may seem just, and vesting for the whole term of the lease or any less term the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of proper and reasonable rent, costs, expenses, damages, compensation, giving security or otherwise, as the court in the circumstances of each case, and having regard to the consent or otherwise of the lessor to the creation of the estate or interest claimed by the under-lessee, may think fit; but in no case shall any such under-lessee be entitled to require a lease to be granted to him for a larger area of land or for any longer term than he had under his original under-lease.

How order made.

(2) Any such order may be made in a suit brought for the purpose by the person claiming as under-lessee, or, where the proceeding by the lessor is in the equitable jurisdiction of the Supreme Court, may be made in such proceeding.

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PART III.

## INVALID LEASES UNDER POWERS.

Lease deemed to be  
granted in intended  
exercise of power.  
12 & 13 Vic., c. 26,  
s. 5.

**6.** When a valid power of leasing is vested in or may be exercised by a person granting a lease, and such lease (by reason of the determination of the estate or interest of such person or otherwise) cannot have effect and continuance according to the terms thereof,  
independently

*Forfeiture and Validation of Leases.*

independently of such power, such lease shall, for the purposes of this Part of this Act, be deemed to be granted in the intended exercise of such power, although such power be not referred to in such lease.

7. (1) Where in the intended exercise of any power of leasing, whether derived under an Act of Parliament or under any instrument lawfully creating such power, a lease has been or may hereafter be granted which is, by reason of the non-observance or omission of some condition or restriction, or by reason of any other deviation from the terms of such power, invalid as against the person entitled after the determination of the interest of the person granting such lease to the reversion, or against other the person who, subject to any lease lawfully granted under such power, would have been entitled for any estate to the hereditaments comprised in such lease, such lease, in case the same have been made bona fide, and the lessee named therein, his executors, administrators, or assigns (as the case may require) have entered thereunder, shall be considered in equity as a contract for a grant at the request of the lessee, his executors, administrators, or assigns (as the case may require), of a valid lease under such power, to the like purport and effect as such invalid lease as aforesaid, save so far as any variation may be necessary in order to comply with the terms of such power; and all persons who would have been bound by a lease lawfully granted under such power shall be bound in equity by such contract:

Certain invalid leases under powers to be construed as agreements to lease. 12 & 13 Vic., c. 26, s. 2.

(2) Provided that no lessee under any such invalid lease as aforesaid, his executors, administrators, or assigns shall be entitled by virtue of any such equitable contract as aforesaid to obtain any variation of such lease where the persons who would have been bound by such contract are willing to confirm such lease without variation.

Proviso where parties interested agree.

(3) Land the subject of any such equitable contract shall, for the purposes of subsection two of section fourteen of the Real Property Act, 1880, be deemed to be a leasehold.

Land subject of equitable contract deemed a leasehold.

8. Where a lease granted in the intended exercise of any such power of leasing as aforesaid is invalid by reason that at the time of the granting thereof the person granting the same could not lawfully grant such lease, but the estate of such person in the hereditaments comprised in such lease has continued after the time when such or the like lease might have been granted by him in the lawful exercise of such power, then and in every such case such lease shall take effect, and be as valid as if the same had been granted at such last-mentioned time, and all the provisions contained in this Part of this Act shall apply to every such lease:

Certain leases validated where grantor could not grant them. *Ibid.* s. 4.

Provided that this section shall not apply where at the time of the granting of the lease the person granting the same was under the age of twenty-one years.

Proviso.

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*Forfeiture and Validation of Leases.*

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Acceptance of rent deemed confirmation of lease.

13 & 14 Vic., c. 17, s. 2.

9. Where, upon or before the acceptance of rent under any such invalid lease as above mentioned, any receipt, memorandum, or note in writing, confirming such lease, is signed by the person accepting such rent, or some other person by him thereunto lawfully authorised, such acceptance shall, as against the person so accepting such rent, be deemed a confirmation of such lease.

Lessee bound to accept confirmation of lease.

13 & 14 Vic., c. 17, s. 3.

10. Where, during the continuance of the possession taken under any such invalid lease as above mentioned, the person for the time being entitled (subject to such possession as aforesaid) to the hereditaments comprised in such lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm such lease without variation, the lessee, his executors, or administrators (as the case may require), or any person who would have been bound by the lease if the same had been valid, shall, upon the request of the person so able to confirm the same, be bound to accept a confirmation accordingly; and such confirmation may be by memorandum or note in writing, signed by the persons confirming and accepting respectively, or by some other persons by them respectively thereunto lawfully authorised; and after confirmation and acceptance of confirmation such lease shall be valid, and shall be deemed to have had from the granting thereof the same effect as if the same had been originally valid.

Savings.

12 & 13 Vic., c. 26, s. 6.

11. Nothing in this Part of this Act shall extend or be construed to prejudice or take away any right of action or other right or remedy to which, but for the enacting of this Part of this Act, the lessee named in any such lease as aforesaid, his executors, administrators, or assigns would or might have been entitled under or by virtue of any covenant for title or quiet enjoyment contained in such lease on the part of the person granting the same, or to prejudice or take away any right of re-entry or other right or remedy to which, but for the enacting of this Part of this Act, the person granting such lease, his executors, administrators, or assigns, or other the person for the time being entitled to the reversion expectant on the determination of such lease, would or might have been entitled, for or by reason of any breach of the covenants, conditions, or provisoes contained in such lease, and on the part of the lessee, his executors, administrators, or assigns, to be observed and performed.

This Part not to extend to certain leases.

*Ibid.* s. 7.

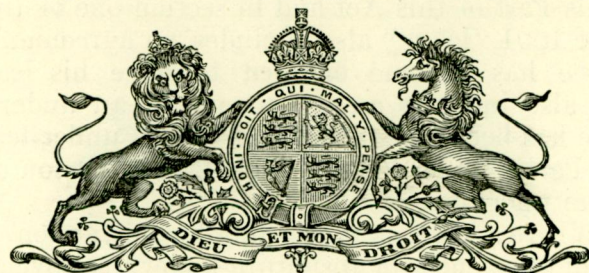
12. This Part of this Act shall not extend to any lease where, before the commencement of this Act, the hereditaments comprised in such lease have been surrendered or relinquished, or recovered adversely by reason of the invalidity thereof, or there has been any judgment or decree in any action or suit concerning the validity of such lease, and shall not prejudice or affect any action or suit already commenced and now pending in any Court of law or equity; but every such action and suit may be proceeded with and such relief had therein as if this Part of this Act had not been enacted.

*I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council Chamber,  
Sydney, 16th August, 1905. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINTO

# EDWARDI VII REGIS.

\*\*\*\*\*

## Act No. 8, 1905.

An Act to grant relief against the exercise of rights of re-entry and forfeiture under leases, and against defects invalidating certain leases; to amend the Forfeiture of Leases Act of 1901; and for other purposes. [Assented to, 21st August, 1905.]

**B**E it enacted by the King'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:—

### PART I.

#### PRELIMINARY.

1. This Act may be cited as the "Forfeiture and Validation of Short title. Leases Act, 1905."

2. This Act is divided into Parts, as follows:—

Division of Act.

PART I.—PRELIMINARY—*ss.* 1, 2.

PART II.—FORFEITURE OF LEASES—*ss.* 3–5.

PART III.—INVALID LEASES UNDER POWERS—*ss.* 6–12

---

PART

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*Forfeiture and Validation of Leases.*

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PART II.

FORFEITURE OF LEASES.

Incorporation of  
Act of 1901.

**3.** This Part of this Act shall be construed with the Forfeiture of Leases Act of 1901.

Definitions.  
55 & 56 Vic. c. 13,  
s. 5.

**4.** In this Part of this Act and in section one of the Forfeiture of Leases Act of 1901 "lease" also includes an agreement for a lease where the lessee has become entitled to have his lease granted; "under-lease" also includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted; and in the said Part "under-lessee" includes any person deriving title under or from an under-lessee.

Power of court to  
protect under-lessees  
on forfeiture of  
superior leases.  
55 & 56 Vic. c. 13,  
s. 4.

**5.** (1) Where a lessor is proceeding by suit, action, or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, made either before or after the commencement of this Act, the Supreme Court in its equitable jurisdiction may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, make an order staying any such suit, action, or other proceeding on such terms as to the Court may seem just, and vesting for the whole term of the lease or any less term the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of proper and reasonable rent, costs, expenses, damages, compensation, giving security or otherwise, as the court in the circumstances of each case, and having regard to the consent or otherwise of the lessor to the creation of the estate or interest claimed by the under-lessee, may think fit; but in no case shall any such under-lessee be entitled to require a lease to be granted to him for a larger area of land or for any longer term than he had under his original under-lease.

How order made.

(2) Any such order may be made in a suit brought for the purpose by the person claiming as under-lessee, or, where the proceeding by the lessor is in the equitable jurisdiction of the Supreme Court, may be made in such proceeding.

PART III.

INVALID LEASES UNDER POWERS.

Lease deemed to be  
granted in intended  
exercise of power.  
12 & 13 Vic., c. 26,  
s. 5.

**6.** When a valid power of leasing is vested in or may be exercised by a person granting a lease, and such lease (by reason of the determination of the estate or interest of such person or otherwise) cannot have effect and continuance according to the terms thereof,  
independently

*Forfeiture and Validation of Leases.*

independently of such power, such lease shall, for the purposes of this Part of this Act, be deemed to be granted in the intended exercise of such power, although such power be not referred to in such lease.

7. (1) Where in the intended exercise of any power of leasing, whether derived under an Act of Parliament or under any instrument lawfully creating such power, a lease has been or may hereafter be granted which is, by reason of the non-observance or omission of some condition or restriction, or by reason of any other deviation from the terms of such power, invalid as against the person entitled after the determination of the interest of the person granting such lease to the reversion, or against other the person who, subject to any lease lawfully granted under such power, would have been entitled for any estate to the hereditaments comprised in such lease, such lease, in case the same have been made bona fide, and the lessee named therein, his executors, administrators, or assigns (as the case may require) have entered thereunder, shall be considered in equity as a contract for a grant at the request of the lessee, his executors, administrators, or assigns (as the case may require), of a valid lease under such power, to the like purport and effect as such invalid lease as aforesaid, save so far as any variation may be necessary in order to comply with the terms of such power; and all persons who would have been bound by a lease lawfully granted under such power shall be bound in equity by such contract:

Certain invalid leases under powers to be construed as agreements to lease. 12 & 13 Vic., c. 26, s. 2.

(2) Provided that no lessee under any such invalid lease as aforesaid, his executors, administrators, or assigns shall be entitled by virtue of any such equitable contract as aforesaid to obtain any variation of such lease where the persons who would have been bound by such contract are willing to confirm such lease without variation.

Proviso where parties interested agree.

(3) Land the subject of any such equitable contract shall, for the purposes of subsection two of section fourteen of the Real Property Act, 1900, be deemed to be a leasehold.

Land subject of equitable contract deemed a leasehold.

8. Where a lease granted in the intended exercise of any such power of leasing as aforesaid is invalid by reason that at the time of the granting thereof the person granting the same could not lawfully grant such lease, but the estate of such person in the hereditaments comprised in such lease has continued after the time when such or the like lease might have been granted by him in the lawful exercise of such power, then and in every such case such lease shall take effect, and be as valid as if the same had been granted at such last-mentioned time, and all the provisions contained in this Part of this Act shall apply to every such lease:

Certain leases validated where grantor could not grant them. Ibid. s. 4.

Provided that this section shall not apply where at the time of the granting of the lease the person granting the same was under the age of twenty-one years.

Proviso.

*Forfeiture and Validation of Leases.*

Acceptance of rent deemed confirmation of lease.

13 & 14 Vic., c. 17, s. 2.

9. Where, upon or before the acceptance of rent under any such invalid lease as above mentioned, any receipt, memorandum, or note in writing, confirming such lease, is signed by the person accepting such rent, or some other person by him thereunto lawfully authorised, such acceptance shall, as against the person so accepting such rent, be deemed a confirmation of such lease.

Lessee bound to accept confirmation of lease.

13 & 14 Vic., c. 17, s. 3.

10. Where, during the continuance of the possession taken under any such invalid lease as above mentioned, the person for the time being entitled (subject to such possession as aforesaid) to the hereditaments comprised in such lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm such lease without variation, the lessee, his executors, or administrators (as the case may require), or any person who would have been bound by the lease if the same had been valid, shall, upon the request of the person so able to confirm the same, be bound to accept a confirmation accordingly; and such confirmation may be by memorandum or note in writing, signed by the persons confirming and accepting respectively, or by some other persons by them respectively thereunto lawfully authorised; and after confirmation and acceptance of confirmation such lease shall be valid, and shall be deemed to have had from the granting thereof the same effect as if the same had been originally valid.

Savings.

12 & 13 Vic., c. 26, s. 6.

11. Nothing in this Part of this Act shall extend or be construed to prejudice or take away any right of action or other right or remedy to which, but for the enacting of this Part of this Act, the lessee named in any such lease as aforesaid, his executors, administrators, or assigns would or might have been entitled under or by virtue of any covenant for title or quiet enjoyment contained in such lease on the part of the person granting the same, or to prejudice or take away any right of re-entry or other right or remedy to which, but for the enacting of this Part of this Act, the person granting such lease, his executors, administrators, or assigns, or other the person for the time being entitled to the reversion expectant on the determination of such lease, would or might have been entitled, for or by reason of any breach of the covenants, conditions, or provisoes contained in such lease, and on the part of the lessee, his executors, administrators, or assigns, to be observed and performed.

This Part not to extend to certain leases.

*Ibid.* s. 7.

12. This Part of this Act shall not extend to any lease where, before the commencement of this Act, the hereditaments comprised in such lease have been surrendered or relinquished, or recovered adversely by reason of the invalidity thereof, or there has been any judgment or decree in any action or suit concerning the validity of such lease, and shall not prejudice or affect any action or suit already commenced and now pending in any Court of law or equity; but every such action and suit may be proceeded with and such relief had therein as if this Part of this Act had not been enacted.

*In the name and on the behalf of His Majesty I assent to this Act.*

FREDK. M. DARLEY,

*Lieutenant-Governor.*

*State Government House,*

*Sydney, 21st August, 1905.*

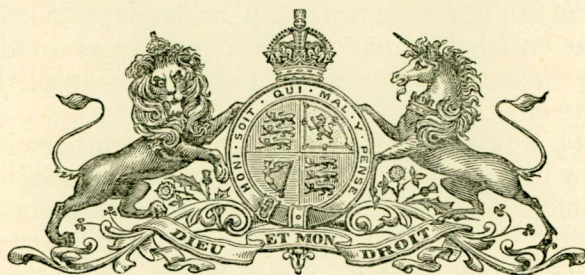


*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council Chamber,  
Sydney, 20th July, 1905.* }

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINTO

## EDWARDI VII REGIS.

\*\*\*\*\*

Act No. , 1905.

An Act to grant relief against the exercise of rights of re-entry and forfeiture under leases, and against defects invalidating certain leases; to amend the Forfeiture of Leases Act of 1901; and for other purposes.

**B**E it enacted by the King'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

### PART I.

#### PRELIMINARY.

1. This Act may be cited as the "Forfeiture and Validation of Short title. Leases Act, 1905."

2. This Act is divided into Parts, as follows:—

Division of Act.

10

PART I.—PRELIMINARY—*ss.* 1, 2.

PART II.—FORFEITURE OF LEASES—*ss.* 3–5.

PART III.—INVALID LEASES UNDER POWERS—*ss.* 6–12

*Forfeiture and Validation of Leases.*

## PART II.

## FORFEITURE OF LEASES.

3. This Part of this Act shall be construed with the Forfeiture of Leases Act of 1901. Incorporation of Act of 1901.

5 4. In this Part of this Act and in section one of the Forfeiture of Leases Act of 1901 "lease" also includes an agreement for a lease where the lessee has become entitled to have his lease granted; "under-lease" also includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted; 10 and in the said Part "under-lessee" includes any person deriving title under or from an under-lessee. Definitions. 55 & 56 Vic. c. 13, s. 5.

5. (1) Where a lessor is proceeding by suit, action, or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, made either before or after the commence- 15 ment of this Act, the Supreme Court in its equitable jurisdiction may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, make an order staying any such suit, action, or other proceeding on such terms as to the Court may seem just, and vesting for the whole 20 term of the lease or any less term the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of proper and reasonable rent, costs, expenses, damages, compensation, giving security or otherwise, as the 25 court in the circumstances of each case, and having regard to the consent or otherwise of the lessor to the creation of the estate or interest claimed by the under-lessee, may think fit; but in no case shall any such under-lessee be entitled to require a lease to be granted to him for a larger area of land or for any longer term than he had 30 under his original under-lease. Power of court to protect under-lessees on forfeiture of superior leases. 55 & 56 Vic. c. 13, s. 4.

(2) Any such order may be made in a suit brought for the purpose by the person claiming as under-lessee, or, where the proceeding by the lessor is in the equitable jurisdiction of the Supreme Court, may be made in such proceeding. How order made.

35

## PART III.

## INVALID LEASES UNDER POWERS.

6. When a valid power of leasing is vested in or may be exercised by a person granting a lease, and such lease (by reason of the determination of the estate or interest of such person or otherwise) 40 cannot have effect and continuance according to the terms thereof, Lease deemed to be granted in intended exercise of power. 12 & 13 Vic., c. 26, s. 5.  
independently

*Forfeiture and Validation of Leases.*

independently of such power, such lease shall, for the purposes of this Part of this Act, be deemed to be granted in the intended exercise of such power, although such power be not referred to in such lease.

7. (1) Where in the intended exercise of any power of leasing, Certain invalid leases under powers to be construed as agreements to lease. 12 & 13 Vic., c. 26, s. 2.  
 5 whether derived under an Act of Parliament or under any instrument lawfully creating such power, a lease has been or may hereafter be granted which is, by reason of the non-observance or omission of some condition or restriction, or by reason of any other deviation from the terms of such power, invalid as against the person entitled after the  
 10 determination of the interest of the person granting such lease to the reversion, or against other the person who, subject to any lease lawfully granted under such power, would have been entitled for any estate to the hereditaments comprised in such lease, such lease, in case the same  
 15 have been made bona fide, and the lessee named therein, his executors, administrators, or assigns (as the case may require) have entered thereunder, shall be considered in equity as a contract for a grant at the request of the lessee, his executors, administrators, or assigns (as the case may require), of a valid lease under such power, to the  
 20 like purport and effect as such invalid lease as aforesaid, save so far as any variation may be necessary in order to comply with the terms of such power; and all persons who would have been bound by a lease lawfully granted under such power shall be bound in equity by such contract:

(2) Provided that no lessee under any such invalid lease as Proviso where parties interested agree.  
 25 aforesaid, his executors, administrators, or assigns shall be entitled by virtue of any such equitable contract as aforesaid to obtain any variation of such lease where the persons who would have been bound by such contract are willing to confirm such lease without variation.

(3) Land the subject of any such equitable contract shall, Land subject of equitable contract deemed a leasehold.  
 30 for the purposes of subsection two of section fourteen of the Real Property Act, 1900, be deemed to be a leasehold.

8. Where a lease granted in the intended exercise of any such Certain leases validated where grantor could not grant them. Ibid. s. 4.  
 power of leasing as aforesaid is invalid by reason that at the time of  
 the granting thereof the person granting the same could not lawfully  
 35 grant such lease, but the estate of such person in the hereditaments comprised in such lease has continued after the time when such or the like lease might have been granted by him in the lawful exercise of such power, then and in every such case such lease shall take effect, and be as valid as if the same had been granted at such last-mentioned  
 40 time, and all the provisions contained in this Part of this Act shall apply to every such lease:

Provided that this section shall not apply where at the time of Proviso.  
 the granting of the lease the person granting the same was under the age of twenty-one years.

*Forfeiture and Validation of Leases.*

9. Where, upon or before the acceptance of rent under any such invalid lease as above mentioned, any receipt, memorandum, or note in writing, confirming such lease, is signed by the person accepting such rent, or some other person by him thereunto lawfully authorised, such acceptance shall, as against the person so accepting such rent, be deemed a confirmation of such lease.

Acceptance of rent deemed confirmation of lease.

13 & 14 Vic., c. 17, s. 2.

10. Where, during the continuance of the possession taken under any such invalid lease as above mentioned, the person for the time being entitled (subject to such possession as aforesaid) to the hereditaments comprised in such lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm such lease without variation, the lessee, his executors, or administrators (as the case may require), or any person who would have been bound by the lease if the same had been valid, shall, upon the request of the person so able to confirm the same, be bound to accept a confirmation accordingly; and such confirmation may be by memorandum or note in writing, signed by the persons confirming and accepting respectively, or by some other persons by them respectively thereunto lawfully authorised; and after confirmation and acceptance of confirmation such lease shall be valid, and shall be deemed to have had from the granting thereof the same effect as if the same had been originally valid.

Lessee bound to accept confirmation of lease.

13 & 14 Vic., c. 17, s. 3.

11. Nothing in this Part of this Act shall extend or be construed to prejudice or take away any right of action or other right or remedy to which, but for the enacting of this Part of this Act, the lessee named in any such lease as aforesaid, his executors, administrators, or assigns would or might have been entitled under or by virtue of any covenant for title or quiet enjoyment contained in such lease on the part of the person granting the same, or to prejudice or take away any right of re-entry or other right or remedy to which, but for the enacting of this Part of this Act, the person granting such lease, his executors, administrators, or assigns, or other the person for the time being entitled to the reversion expectant on the determination of such lease, would or might have been entitled, for or by reason of any breach of the covenants, conditions, or provisoes contained in such lease, and on the part of the lessee, his executors, administrators, or assigns, to be observed and performed.

Savings.

12 & 13 Vic., c. 26, s. 6.

12. This Part of this Act shall not extend to any lease where, before the commencement of this Act, the hereditaments comprised in such lease have been surrendered or relinquished, or recovered adversely by reason of the invalidity thereof, or there has been any judgment or decree in any action or suit concerning the validity of such lease, and shall not prejudice or affect any action or suit already commenced and now pending in any Court of law or equity; but every such action and suit may be proceeded with and such relief had therein as if this Part of this Act had not been enacted.

This Part not to extend to certain leases.

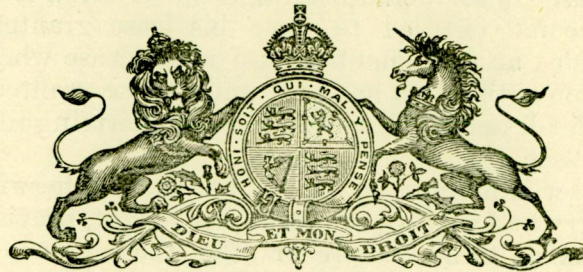
*Ibid.* s. 7.

*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council Chamber,  
Sydney, July, 1905. }*

*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINTO

# EDWARDI VII REGIS.

\*\*\*\*\*

Act No. , 1905.

An Act to grant relief against the exercise of rights of re-entry and forfeiture under leases, and against defects invalidating certain leases; to amend the Forfeiture of Leases Act of 1901; and for other purposes.

**B**E it enacted by the King'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

### PART I.

#### PRELIMINARY.

1. This Act may be cited as the "Forfeiture and Validation of Short title. Leases Act, 1905."

2. This Act is divided into Parts, as follows:—

Division of Act.

10

PART I.—PRELIMINARY—*ss.* 1, 2.

PART II.—FORFEITURE OF LEASES—*ss.* 3-5.

PART III.—INVALID LEASES UNDER POWERS—*ss.* 6-12

*Forfeiture and Validation of Leases.*

## PART II.

## FORFEITURE OF LEASES.

3. This Part of this Act shall be construed with the Forfeiture of Leases Act of 1901. Incorporation of Act of 1901.

5 4. In this Part of this Act and in section one of the Forfeiture of Leases Act of 1901 "lease" also includes an agreement for a lease where the lessee has become entitled to have his lease granted; "under-lease" also includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted; Definitions. 55 & 56 Vic. c. 13, s. 5.

10 and in the said Part "under-lessee" includes any person deriving title under or from an under-lessee.

15 5. (1) Where a lessor is proceeding by suit, action, or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, made either before or after the commencement of this Act, the Supreme Court in its equitable jurisdiction may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, make an order staying any such suit, action, or other proceeding on such terms as to the Court may seem just, and vesting for the whole Power of court to protect under-lessees on forfeiture of superior leases. 55 & 56 Vic. c. 13, s. 4.

20 term of the lease or any less term the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of proper and reasonable rent, costs, expenses, damages, compensation, giving security or otherwise, as the 25

25 court in the circumstances of each case, and having regard to the consent or otherwise of the lessor to the creation of the estate or interest claimed by the under-lessee, may think fit; but in no case shall any such under-lessee be entitled to require a lease to be granted to him for a larger area of land or for any longer term than he had 30

30 under his original under-lease.

(2) Any such order may be made in a suit brought for the purpose by the person claiming as under-lessee, or, where the proceeding by the lessor is in the equitable jurisdiction of the Supreme Court, may be made in such proceeding. How order made.

35

## PART III.

## INVALID LEASES UNDER POWERS.

6. When a valid power of leasing is vested in or may be exercised by a person granting a lease, and such lease (by reason of the determination of the estate or interest of such person or otherwise) cannot have effect and continuance according to the terms thereof, Lease deemed to be granted in intended exercise of power. 12 & 13 Vic., c. 26, s. 5.

independently

*Forfeiture and Validation of Leases.*

independently of such power, such lease shall, for the purposes of this Part of this Act, be deemed to be granted in the intended exercise of such power, although such power be not referred to in such lease.

7. (1) Where in the intended exercise of any power of leasing,  
 5 whether derived under an Act of Parliament or under any instrument  
 lawfully creating such power, a lease has been or may hereafter be  
 granted which is, by reason of the non-observance or omission of some  
 condition or restriction, or by reason of any other deviation from the  
 terms of such power, invalid as against the person entitled after the  
 10 determination of the interest of the person granting such lease to the  
 reversion, or against other the person who, subject to any lease lawfully  
 granted under such power, would have been entitled for any estate to  
 the hereditaments comprised in such lease, such lease, in case the same  
 have been made bona fide, and the lessee named therein, his executors,  
 15 administrators, or assigns (as the case may require) have entered  
 thereunder, shall be considered in equity as a contract for a grant  
 at the request of the lessee, his executors, administrators, or assigns  
 (as the case may require), of a valid lease under such power, to the  
 like purport and effect as such invalid lease as aforesaid, save so far as  
 20 any variation may be necessary in order to comply with the terms of  
 such power; and all persons who would have been bound by a lease  
 lawfully granted under such power shall be bound in equity by such  
 contract:

(2) Provided that no lessee under any such invalid lease as  
 25 aforesaid, his executors, administrators, or assigns shall be entitled by  
 virtue of any such equitable contract as aforesaid to obtain any  
 variation of such lease where the persons who would have been bound  
 by such contract are willing to confirm such lease without variation.

(3) Land the subject of any such equitable contract shall,  
 30 for the purposes of subsection two of section fourteen of the Real  
 Property Act, 1900, be deemed to be a leasehold.

8. Where a lease granted in the intended exercise of any such  
 power of leasing as aforesaid is invalid by reason that at the time of  
 the granting thereof the person granting the same could not lawfully  
 35 grant such lease, but the estate of such person in the hereditaments  
 comprised in such lease has continued after the time when such or  
 the like lease might have been granted by him in the lawful exercise  
 of such power, then and in every such case such lease shall take effect,  
 and be as valid as if the same had been granted at such last-mentioned  
 40 time, and all the provisions contained in this Part of this Act shall  
 apply to every such lease:

Provided that this section shall not apply where at the time of  
 the granting of the lease the person granting the same was under the  
 age of twenty-one years.

*Forfeiture and Validation of Leases.*

9. Where, upon or before the acceptance of rent under any such invalid lease as above mentioned, any receipt, memorandum, or note in writing, confirming such lease, is signed by the person accepting such rent, or some other person by him thereunto lawfully authorised, 5 such acceptance shall, as against the person so accepting such rent, be deemed a confirmation of such lease.

Acceptance of rent deemed confirmation of lease.

13 & 14 Vic., c. 17, s. 2.

10. Where, during the continuance of the possession taken under any such invalid lease as above mentioned, the person for the time being entitled (subject to such possession as aforesaid) to the hereditaments 10 comprised in such lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm such lease without variation, the lessee, his executors, or administrators (as the case may require), or any person who would have been bound by the lease if the same had been valid, shall, upon the request of the person so able to 15 confirm the same, be bound to accept a confirmation accordingly; and such confirmation may be by memorandum or note in writing, signed by the persons confirming and accepting respectively, or by some other persons by them respectively thereunto lawfully authorised; and after confirmation and acceptance of confirmation such lease shall 20 be valid, and shall be deemed to have had from the granting thereof the same effect as if the same had been originally valid.

Lessee bound to accept confirmation of lease.

13 & 14 Vic., c. 17, s. 3.

11. Nothing in this Part of this Act shall extend or be construed to prejudice or take away any right of action or other right or remedy to which, but for the enacting of this Part of this Act, the 25 lessee named in any such lease as aforesaid, his executors, administrators, or assigns would or might have been entitled under or by virtue of any covenant for title or quiet enjoyment contained in such lease on the part of the person granting the same, or to prejudice or take away any right of re-entry or other right or remedy to which, 30 but for the enacting of this Part of this Act, the person granting such lease, his executors, administrators, or assigns, or other the person for the time being entitled to the reversion expectant on the determination of such lease, would or might have been entitled, for or by reason of any breach of the covenants, conditions, or provisoes contained in such 35 lease, and on the part of the lessee, his executors, administrators, or assigns, to be observed and performed.

Savings.

12 & 13 Vic., c. 26, s. 6.

12. This Part of this Act shall not extend to any lease where, before the commencement of this Act, the hereditaments comprised in such lease have been surrendered or relinquished, or recovered 40 adversely by reason of the invalidity thereof, or there has been any judgment or decree in any action or suit concerning the validity of such lease, and shall not prejudice or affect any action or suit already commenced and now pending in any Court of law or equity; but every such action and suit may be proceeded with and such relief had 45 therein as if this Part of this Act had not been enacted.

This Part not to extend to certain leases.

*Ibid.* s. 7.



Legislative Council.

No. , 1905.

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## A BILL

To grant relief against the exercise of rights of re-entry and forfeiture under leases, and against defects invalidating certain leases; to amend the Forfeiture of Leases Act of 1901; and for other purposes.

[MR. HUGHES;—21 *June*, 1905.]

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**B**E it enacted by the King'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:—

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### PART I.

#### PRELIMINARY.

1. This Act may be cited as the "Forfeiture and Validation of Short title.  
Leases Act, 1905."

2. This Act is divided into Parts, as follows:—

Division of Act.

10

PART I.—PRELIMINARY—*ss.* 1, 2.

PART II.—FORFEITURE OF LEASES—*ss.* 3-5.

PART III.—INVALID LEASES UNDER POWERS—*ss.* 6-12

## PART II.

## FORFEITURE OF LEASES.

Incorporation of  
Act of 1901.

Definitions.

55 & 56 Vic. c. 13,  
s. 5.

Power of court to  
protect under-lessees  
on forfeiture of  
superior leases.

55 & 56 Vic. c. 13,  
s. 4.

How order made.

3. This Part of this Act shall be construed with the Forfeiture of Leases Act of 1901.

4. In this Part of this Act and in section one of the Forfeiture of Leases Act of 1901 "lease" also includes an agreement for a lease where the lessee has become entitled to have his lease granted; "under-lease" also includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted; and in the said Part "under-lessee" includes any person deriving title under or from an under-lessee.

5. (1) Where a lessor is proceeding by suit, action, or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, made either before or after the commencement of this Act, the Supreme Court in its equitable jurisdiction may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, make an order staying any such suit, action, or other proceeding on such terms as to the Court may seem just, and vesting for the whole term of the lease or any less term the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security or otherwise, as the court in the circumstances of each case may think fit; but in no case shall any such under-lessee be entitled to require a lease to be granted to him for any longer term than he had under his original under-lease.

(2) Any such order may be made in a suit brought for the purpose by the person claiming as under-lessee, or, where the proceeding by the lessor is in the equitable jurisdiction of the Supreme Court, may be made in such proceeding.

## PART III.

## INVALID LEASES UNDER POWERS.

Lease deemed to be  
granted in intended  
exercise of power.

12 & 13 Vic., c. 26,  
s. 5.

6. When a valid power of leasing is vested in or may be exercised by a person granting a lease, and such lease (by reason of the determination of the estate or interest of such person or otherwise) cannot have effect and continuance according to the terms thereof, independently of such power, such lease shall, for the purposes of this Part of this Act, be deemed to be granted in the intended exercise of such power, although such power be not referred to in such lease.

7. (1) Where in the intended exercise of any power of leasing, whether derived under an Act of Parliament or under any instrument lawfully creating such power, a lease has been or may hereafter be granted which is, by reason of the non-observance or omission of some condition or restriction, or by reason of any other deviation from the terms of such power, invalid as against the person entitled after the determination of the interest of the person granting such lease to the reversion, or against other the person who, subject to any lease lawfully granted under such power, would have been entitled for any estate to the hereditaments comprised in such lease, such lease, in case the same have been made bona fide, and the lessee named therein, his executors, administrators, or assigns (as the case may require) have entered thereunder, shall be considered in equity as a contract for a grant at the request of the lessee, his executors, administrators, or assigns (as the case may require), of a valid lease under such power, to the like purport and effect as such invalid lease as aforesaid, save so far as any variation may be necessary in order to comply with the terms of such power; and all persons who would have been bound by a lease lawfully granted under such power shall be bound in equity by such contract:

Certain invalid leases under powers to be construed as agreements to lease. 12 & 13 Vic., c. 26, s. 2.

(2) Provided that no lessee under any such invalid lease as aforesaid, his executors, administrators, or assigns shall be entitled by virtue of any such equitable contract as aforesaid to obtain any variation of such lease where the persons who would have been bound by such contract are willing to confirm such lease without variation.

Proviso where parties interested agree.

(3) Land the subject of any such equitable contract shall, for the purposes of subsection two of section fourteen of the Real Property Act, 1800, be deemed to be a leasehold.

Land subject of equitable contract deemed a leasehold.

8. Where a lease granted in the intended exercise of any such power of leasing as aforesaid is invalid by reason that at the time of the granting thereof the person granting the same could not lawfully grant such lease, but the estate of such person in the hereditaments comprised in such lease has continued after the time when such or the like lease might have been granted by him in the lawful exercise of such power, then and in every such case such lease shall take effect, and be as valid as if the same had been granted at such last-mentioned time, and all the provisions contained in this Part of this Act shall apply to every such lease:

Certain leases validated where grantor could not grant them. *Ibid.* s. 4.

Provided that this section shall not apply where at the time of the granting of the lease the person granting the same was under the age of twenty-one years.

Proviso.

9. Where, upon or before the acceptance of rent under any such invalid lease as above mentioned, any receipt, memorandum, or note in writing, confirming such lease, is signed by the person accepting such rent, or some other person by him thereunto lawfully authorised, such acceptance shall, as against the person so accepting such rent, be deemed a confirmation of such lease.

Acceptance of rent deemed confirmation of lease. 13 & 14 Vic., c. 17, s. 2.

Lessee bound to  
accept confirmation  
of lease.  
13 & 14 Vic., c. 17,  
s. 3.

10. Where, during the continuance of the possession taken under any such invalid lease as above mentioned, the person for the time being entitled (subject to such possession as aforesaid) to the hereditaments comprised in such lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm such lease without variation, 5 the lessee, his executors, or administrators (as the case may require), or any person who would have been bound by the lease if the same had been valid, shall, upon the request of the person so able to confirm the same, be bound to accept a confirmation accordingly; 10 and such confirmation may be by memorandum or note in writing, signed by the persons confirming and accepting respectively, or by some other persons by them respectively thereunto lawfully authorised; and after confirmation and acceptance of confirmation such lease shall be valid, and shall be deemed to have had from the granting thereof the same effect as if the same had been originally valid. 15

Savings.  
12 & 13 Vic., c. 26,  
s. 6.

11. Nothing in this Part of this Act shall extend or be construed to prejudice or take away any right of action or other right or remedy to which, but for the enacting of this Part of this Act, the lessee named in any such lease as aforesaid, his executors, administrators, or assigns would or might have been entitled under or by 20 virtue of any covenant for title or quiet enjoyment contained in such lease on the part of the person granting the same, or to prejudice or take away any right of re-entry or other right or remedy to which, but for the enacting of this Part of this Act, the person granting such lease, his executors, administrators, or assigns, or other the person for 25 the time being entitled to the reversion expectant on the determination of such lease, would or might have been entitled, for or by reason of any breach of the covenants, conditions, or provisoes contained in such lease, and on the part of the lessee, his executors, administrators, or assigns, to be observed and performed. 30

This Part not to  
extend to certain  
leases.  
*Ibid.* s. 7.

12. This Part of this Act shall not extend to any lease where, before the commencement of this Act, the hereditaments comprised in such lease have been surrendered or relinquished, or recovered adversely by reason of the invalidity thereof, or there has been any judgment or decree in any action or suit concerning the validity of 35 such lease, and shall not prejudice or affect any action or suit already commenced and now pending in any Court of law or equity; but every such action and suit may be proceeded with and such relief had therein as if this Part of this Act had not been enacted.

## EXPLANATION and Synopsis of the Forfeiture and Validation of Leases Bill.

THIS Bill is an adoption of certain sections of three English Acts, viz., 12 and 13 Vic., c. 26; 13 and 14 Vic., c. 17; and 55 and 56 Vic., c. 13.

Part II adopts sections 4 and 5 of the English Conveyancing Act of 1892 (55 and 56 Vic., c. 13). These sections were apparently overlooked when our Forfeiture of Leases Act of 1901 was passed, adopting certain sections of the English Conveyancing Act of 1881. The Act (55 and 56 Vic., c. 13) was introduced into the House of Lords by the late Lord Herschell, and the two sections in question were commented on by the Lord Chancellor (Lord Halsbury) as follows: "It was a Bill that did not interfere with the just rights of the landlord, and that conferred a great benefit on tenants. The provisions of the Bill will enable under-lessees to a certain extent to be protected and prevent their leases being forfeited or wiped out (for no fault on their part). The Bill will not enable an under-lessee to obtain a reduction of rent or to hold his property in advance of rights of the landholder, but it will enable the under-lessee to go in and perform the duties of chief lessee, so that the under-lease may be maintained." (*Vide Hansard*, 4th Series, Vol. 1, page 1755, year 1892.)

Part III of the Bill is taken from two other English Acts—12 and 13 Vic., c. 21, and 13 Vic., c. 17. The first of these Acts was introduced by the Solicitor-General ( ), who said: "It was one of considerable importance in cases where leases were made under the exercise of a power given to any person having a limited interest, given either by deed or will . . . There were defects to remedy which the Court of Chancery was not in the habit of interfering with, and which were only taken advantage of for the purposes that, he might say, were not honest ones. For instance, a person having certain property on the banks of the Thames, the tenants for life, in connection with the remainder man, obtained an Act of Parliament to authorise the granting of building leases, with the usual proviso for the best rents being reserved in the leases. In the leases a peppercorn rent was reserved for the first year, the rent in future years being proportionately higher in consequence; but the peppercorn rent not coming under the terms "best rent" in the Act of Parliament, the leases became invalid, and the tenants forfeited their capital expended in building. The present Act provides a remedy for that and for other injustices." (*Vide Hansard*, page 362, vol. 105, 3rd series.)

Part II, Clause 3.—The effect of this clause is that Part II is to be construed with the Forfeiture of Leases Act of 1901; so that, for example, the definition of lessor given in that Act will apply to this portion of the Bill, and section 5 of the Forfeiture of Leases Act, 1901, will allow rules to be made for regulating the time, form, and mode of procedure, and the practice of the Courts, in respect to the matters to which the Act will relate.

Clause 4 is a definition clause, and its effect is—

- (a) To place the parties to an agreement for a lease or an under-lease in the same position in regard to the provisions of the Forfeiture of Leases Act of 1901 and Part II of the Bill as if they were parties to a lease or under-lease, if the lessee or under-lessee is in a position to enforce the grant of his lease or under lease.

The amendment of the Forfeiture of Leases Act, and the definition in this Bill, are rendered necessary by the decisions in *Swaine v. Ayres*, 21 Q.B.D., 289; *Ayling v. Mercer*, 1885, W.N., 166; *Strong v. Stringer*, 61 L.T., 470, to the effect that "lease" in the Conveyancing Act of 1881 did not include "agreement for a lease" but should be construed strictly—

- (b) To give similar rights to those deriving title from an under-lessee as are given to an under-lessee.

The clause is copied from the English Act.

Clause 5, sub-clause (1), adopts section 4 of the English Conveyancing Act of 1892. It provides in effect that where a lessor is taking steps to put an end to a lease for a breach of some covenant, proviso, or stipulation by the lessee, then, on the application of an under-lessee, the Equity Court may, on such terms as to the Court shall seem just, grant to the under-lessee a lease for the term of the under-lease or a less term, upon such conditions as to the execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security, or otherwise as the Court in the circumstances of the case may think fit. The Equity Court is to consider what is proper and reasonable to the lessor, and has the most ample power to require the under-lessee to take even a less term than given by his under-lease, and

to pay a higher rent (see *Ewart v. Fryer*), and to require the under-lessee to pay all the costs, expenses, damages (including arrears of rent owing by the lessee to the lessor) which the lessor has incurred, whether due to the lessee's default or to the under-lessee's application and to make such other compensation and give such security (*e.g.* to ensure that the under-lessee will duly carry out the terms of the new lease), and to sign such deeds or documents as the Court may require. By such deeds or documents the under-lessee would become directly a lessee of and responsible to the lessor and may be put under the covenants and conditions imposed by the Court. For cases illustrating how carefully the Court has held it must safeguard the interests of the lessor, *vide Ewart v. Fryer*, 70 L.T. Eq., 138; *London Bridge Coy. v. Thomson and others*, 89 L.T.R., 50; and *Cholmeley's School v. Sewell*, 1894, 2 Q.B., 913. To make more abundantly clear how the Court is to restrictively construe the section, the following amendments will be proposed, viz.:—Page 2, clause 5, line 23, after “payment of” insert “proper and reasonable”; page 2, clause 5, line 25, after “each case” insert “and having regard to the consent or otherwise of the lessor to the creation of the estate or interest claimed by the under-lessee”; page 2, clause 5, line 26, after “for” insert “a larger area of land or for”

Clause 5, sub-clause 2.—This sub-clause has been added to the original English section, because law and equity are not administered here in our court as they are in England.

Part III.—Clause 6 is the same as the English section, and is so well and so concisely drafted that it is difficult to adequately explain its effect more shortly. An example of the operation of the clause is as follows:—If a lessor, being a life-tenant, and thereby having general power to grant a lease for a term of ten years, also has special power under the settlement to grant a lease for twenty-one years, and in fact without reference to such special power grants a lease for fifteen years, and dies before the expiration of the term so granted, the lease will be assumed to have been given in exercise of the greater power and will be valid accordingly.

This just alteration of the common law has been enacted since 1849.

Clause 7, sub-clause 1, is identical with the English section, and is a well-considered example of draftsmanship, the careful and concise terms of which prevent any doubt as to its intention. This section provides that if a lease (invalid by reason of any deviation from the terms of a power) has been made bona fide, and the lessee has entered into possession of the land comprised therein, then such lease is considered as an equitable contract to grant a valid lease under the power to the like effect as such invalid lease, *save so far as any variation may be necessary in order to comply with the power*—that is to say, *the lease as a contract is only effective after every variation has been made therein that is necessary to make it comply with the power*; in other words, by clause 7, sub-clause 1, everything is to be added to or taken from such a lease to make it exactly comply with the power. But at the same time it is provided by sub-clause 2 of clause 7, and also by clause 10, that the owners of the land shall have the right to say whether the lessee shall take the lease as it exists or take it varied so as to conform with the terms of the power. Thus no hardship results to the owners of the land; and the lessee, in consideration of the protection given to him, must, at the option of the owners of the land, either put up with his lease as he took it, or put up with the lease varied so as to be a compliance with the power.

Sub-clause 3 provides that such an equitable contract shall be deemed a leasehold in order that, like other leases, it may be brought under the provisions of the Real Property Act relating to leases, in which case the Registrar General will, under section 42 of that Act, as in other cases, notify on the certificate of title of such a lease, what variations and qualifications it is subject to under the provisions of this part of this Act and in accordance with the power under which it is granted.

It is to be noted that such a lease is not protected if it was not made bona fide; and the words bona fide, as used in this section, have been held to exclude from the benefits of this section cases where the lessor knowingly, and therefore wilfully, ignored the substantial safeguards provided by the power.

The object of this clause is to prevent, in the manner beforementioned, bona fide leases from being held void merely because they contain what may be, and often is, a mere technical deviation from the directions of the power. Thus, if a power authorises leases to be made at the “best” rent, and a bona fide lease is made at a progressively increasing rent, which will (on the average of only a few years) be far in excess of the best fixed rent that could have been got in the market, nevertheless the Equity Court (notwithstanding the benefits the owners of the land have obtained, and will obtain) must, following its ancient decision, declare the lease void. Under this clause, however, the owners of the land can either elect to keep the lease as it is, or consent to its being varied to comply with the power, and ask the Court to determine a fixed “best rent.”

Clause 8.—The intention of this clause is to bring leases that are made under powers to some extent within the general rule of law, that “the interest when it accrues feeds the estoppel;” that is to say, if a person (other than an infant) makes a lease before he had power so to do, and subsequently acquires such power, then the lease becomes good from the last date. This clause is a copy of the original English section, with the proviso inserted to make clear what otherwise might be doubtful. Clause

Clause 9 is the same as the English section, and provides a short method for the proper legal persons to confirm an invalid lease. This clause provides that acceptance of rent, accompanied by a written confirmation, will make such a lease good as against the person so accepting rent and confirming the lease.

Clause 10 is the same as the English section, and its effect (as stated under the notice on clause 7) is to give the owners of the land entitled to confirm the original lease the right to insist on the lessee taking the lease as originally granted, and not with the variations necessary to conform with the power. This is a proper conservation of the rights of the landlord.

Clause 11 is the same as the English section and preserves the rights the lessee may have personally against the person who granted the lease and covenanted it was good. It also preserves any right of re-entry or other right or remedy the lessor and other persons interested in the ownership would, but for this part of the Bill, have against the lessee.

Clause 12 provides that this Bill is not to extend to any lease that has come to an end, or to any lease regarding which there has been any judgment respecting the validity thereof, and is not to affect any action or suit already commenced.

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The first part of the paper is devoted to a general discussion of the problem. It is shown that the problem is of great importance and that it has not been solved in the literature. The author then proceeds to a detailed analysis of the problem and shows that the problem is solvable. The author then gives a complete solution of the problem. The solution is given in the form of a theorem and is proved by a direct method. The author then discusses the implications of the result and shows that it is of great importance. The author concludes the paper by stating that the problem is of great importance and that it has not been solved in the literature.