

ENGLISH LAW.—FINES, AND COMMON RECOVERIES.

ACT NO. XXXI. OF 1854.

[Received assent of G. G. on the 16th December, 1854.]

1. *Abolishes all real actions.*
2. *Empowers tenants in tail, &c. to dispose of or enlarge their estate by deed.*
- 3, 5, 6. *Empowers married woman to dispose of, &c. her estate by deed acknowledged (5) with the concurrence of her husband and the deed to be acknowledged; or (6) if husband be lunatic, &c. or separated, husband's concurrence may be dispensed with.*
4. *Money to be invested in lands to be disposed of as the interest in lands might be.*
7. *Empowers Supreme Court to appoint Commissioners to take acknowledgments.*
- 8, 9. *Directs in what way acknowledgments of married woman shall be taken: and (9) what memorandum shall be signed by Judge, &c.*
10. *Deeds of acknowledgment to take effect from date of acknowledgment,*
11. *Signature and authority of Judge, &c. taking acknowledgment need not be proved, and acknowledgment to be deemed duly taken.*
12. *Saves all powers of alienation otherwise than by levying fine, &c. created prior to this Act.*
13. *In future, dispenses with the necessity of trustees to preserve contingent remainders.*
14. *Simple deed to be sufficient for conveyance of any interest in immoveable property.*
15. *No conveyance to operate tortuously.*
16. *Makes words of limitation unnecessary to pass the whole estate. Gift, &c. to a man, to be to him for ever, unless by construction a different intent appears.*

17. *Bona fide purchasers of trust property not bound to see to application of purchase money.*

18. *Act to apply only under English Law.*

19. *"Supreme Court" to include the Court of Straits Settlements.*

An Act to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English Law is applicable.

Whereas it is expedient, in cases to which the English law applies, to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land, and to exempt the purchasers of trust property from the liability to see to the application of the purchase money, it is enacted as follows:

Preamble.

I. All real actions, fines and common recoveries, except such as may be in progress when this Act comes into operation, are abolished.

Real actions, &c.  
abolished.

II. Every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, either at law or in equity, in any lands or hereditaments, not being under any disability, shall have power to dispose of such lands and hereditaments against the issue in tail, and all persons whose estates are to take effect after the determination or in defeazance of his own, or to enlarge his said estate into an estate in fee simple, by any deed declaring an intention so to dispose of the said lands or hereditaments, or to enlarge his estate therein; and every tenant; in tail or other owner of an estate of inheritance less than an estate in fee simple, who shall be under the disability of coverture, shall have power to dispose of or enlarge her said estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned. Provided that every disposition under this Section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made.

Tenants in tail may dispose of or enlarge his estate by simple deed, &c.

III. Every married woman who, either alone or jointly with

A married woman, with her husband's concurrence, empowered to dispose of her estate by deed acknowledged, &c.

her husband, is possessed of or entitled to any estate or interest in, or any power to be exercised over any lands or hereditaments, which, but for the passing of this Act, she might have disposed of or extinguished by levying a fine, or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, release, surrender, or extinguish any such estate, interest, or power, as fully and effectually as if she were an unmarried woman.

IV. The provisions of the last two preceding Sections shall, so far as circumstances will admit, apply to money subject to be invested in lands or other hereditaments.

Provision to apply to money subject to be invested in lands.

V. No deed to be executed by a married woman under the provisions hereinbefore contained shall, so far as regards the interest of such married woman, be valid or effectual, unless her husband concur therein, nor unless the deed be acknowledged in manner hereinafter prescribed before a Judge of one of Her Majesty's Supreme Courts, or before a Judge or other covenanted officer of the East India Company exercising civil jurisdiction in the place wherein such deed shall be acknowledged, or before some Commissioner appointed either specially for the occasion, or appointed as a permanent Commissioner by one of Her Majesty's said Courts to take such acknowledgments.

Execution of deeds by married women.

VI. If the husband of any married woman, desirous of enlarging, passing, or destroying any estate, interest, or power, by a deed to be acknowledged by her under this Act, shall be a lunatic, idiot, or of unsound mind, whether he shall have been found such by inquisition or not, or from any other cause shall be incapable of executing a deed, or if his residence shall not be known, or if he shall be in prison, or living apart from his wife either by mutual consent, or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause

If husband be lunatic, &c., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, &c.

whatever, it shall be lawful for any of Her Majesty's said Courts, by an order to be made in a summary way upon the application of such married woman, and upon such evidence as to the Court shall seem meet, to dispense with the concurrence of her husband in the deed so to be acknowledged; and any deed to be executed or acknowledged by her in pursuance of such order shall (but without prejudice to the rights of her husband as then existing, independently of this Act) be as valid and effectual as if he had concurred therein.

VII. It shall be lawful for any of Her Majesty's said Courts to appoint, by its order, under the seal of the Court, to be published in the *Government Gazette*, or otherwise as the Court shall direct, permanent Commissioners, either by name or office, and to appoint from time to time, under special Commissions, Special Commissioners, any one of whom shall be authorized and empowered, unless the Act is directed to be done before more than one, to take the acknowledgment of any deed by any married woman, who, by reason of her place of residence, or ill health, or other sufficient cause, shall be unable to make such acknowledgment before one of the Judges or other Officers described in the preceding Section.

VIII. Every such Judge, Officer, or Commissioner as aforesaid, before he shall receive the acknowledgment by any married woman of any deed to be acknowledged by her under this Act shall examine her apart from her husband, touching her knowledge of such deed, and shall ascertain whether she understands its object, and freely and voluntarily consents to the same and unless she appears to understand its object, and freely and voluntarily to consent to such deed, he shall not permit her to acknowledge the same, and in such case, such deed, so far as relates to the execution thereof by such married woman, shall be void.

IX. Every Judge, Officer, or Commissioner, taking such acknowledgment under this Act, shall, at the time of taking the same, sign a memorandum to be endorsed on or written at the foot or in the margin of such deed, which memorandum shall be to the following effect, namely, "this deed marked

Supreme Courts may appoint, for the purpose of taking such acknowledgment, permanent or special Commissioners.

Such married woman to be examined apart before Judge, &c. taking her acknowledgment.

Judge, &c. shall sign a memorandum of acknowledgment--form of it.

( ) was this day produced before me and acknowledged by therein named, to be her act and deed, previous to which acknowledgment the said was examined by me separately and apart from her husband, touching her knowledge of the contents of the said deed and her consent thereto, and appeared to understand the same, and declared the same to be freely and voluntarily executed by her.

X. Every deed executed by a married woman and hereby required to be acknowledged, shall, so far as regards the interest of such married woman, take effect only from the time of the acknowledgment thereof.

Deed of married woman to take effect from time of acknowledgment.

XI. It shall not be necessary for any person producing a deed so acknowledged in any Court of Justice, to prove the hand-writing or authority of the Judge or other Officer, or the Commissioner taking such acknowledgment, but if such memorandum purports to have been in substance regularly made and signed, the deed shall be presumed to have been duly acknowledged by the party, until the contrary is shown.

Deed when presumed to have been duly acknowledged.

XII. Nothing in this Act contained shall abridge, extend, or affect the powers of alienation or disposition, which any married woman might have exercised over any property or rights otherwise than by levying a fine or suffering a recovery, or by joining in one of such assurances before the passing of this Act.

Nothing in this Act to abridge the powers of alienation which a married woman possessed before.

XIII. In any deed or will executed after this Act comes into operation, and disposing of immoveable property situate in the territories in the possession and under the Government of the East India Company, wherein contingent estates are limited without the appointment of any trustees to preserve such contingent estates, the same shall be, to all intents and purposes, as effectually protected by the law, as if such trustees had been duly appointed.

Contingent estates in deeds or wills, without trustees to preserve, to be protected by the law from destruction.

XIV. Any estate or interest in immoveable property, situate within the said territories, whether in possession, remainder, or reversion, may, in addition to any other mode of conveyance

Estate may be conveyed, &c. by deed, though not operating under the Statute of Uses.



or release which is now valid. be conveyed, passed, or released by a simple deed, whether such deed operate under the Statute of Uses or not.

XV. No conveyance of any kind shall operate to destroy, impair, or affect any estate or interest which the conveying party has no right to destroy, impair or affect, or beyond the extent to which he may impair or affect the same.

XVI. It shall not be necessary in any deed relating to immoveable property situate within the said territories, to be executed after the passing of this Act, to add words of limitation to

heirs, when the intention is to give the absolute interest to a person and his heirs general; but a gift, grant, or other conveyance of immoveable property to, or in favor of any person, shall be taken to give him the entire and absolute interest in the nature of an estate in fee simple, unless such construction is rendered inadmissible by the other contents of the deed; and when in any deed or will executed after the passing of this Act any

property is given to a person for life or for other free-hold interest, and afterwards in the same deed, or will, is limited to his heirs or heir special, the estates shall not unite, but the limitation to the heirs shall be a limitation of an estate to be taken by the heirs by purchase.

XVII. When any property is sold, the proceeds of which are subject to any trust, the *bona-fide* purchaser of the property shall not in any case be bound to see to the application of the purchase-money to the purposes of the trust.

XVIII. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

XIX. The term "Her Majesty's Supreme Courts" shall include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

No conveyance to operate tortuously.

Words of limitation not necessary in a deed, to give estate by inheritance.

Estate limited to heirs shall not unite with a prior life estate.

*Bona-fide* purchaser not required to see to application of trust-money in any case.

Act to apply only to cases Governed by English Law.

Interpretation-