



CHAPTER 9.

An Act to amend Fleming's Estate Act, 1852, and the Acts amending the same. A.D. 1877.
[10th August 1877.]

WHEREAS by an Act passed in the session of Parliament held in the fifteenth and sixteenth years of the reign of Her present Majesty, intituled "An Act for enabling leases, sales, and exchanges to be made of the family estates in the Isle of Wight and elsewhere in the county of Southampton of John Brown Willis Fleming, Esquire, and for other purposes," and of which the short title is "Fleming's Estate Act, 1852," provision was made for the management, selling, and exchanging the said estates in the said Act particularly mentioned and described (which estates are in this Act referred to as "Fleming's Estates"), and by the said Act certain parts of Fleming's Estates therein referred to as "the building lands," and certain other parts of Fleming's Estates, being the lands specified in the Second and Seventh Schedules to the said Act annexed, were vested in John Henry Hearn and Joseph Alfred Hardcastle for the term of one thousand two hundred years from the tenth day of February one thousand eight hundred and thirty-seven for the purposes by the said Act declared with respect to that term, and the said John Henry Hearn and Joseph Alfred Hardcastle, and the survivor of them, and other the persons or person being trustees within the meaning of the said Act (and in the said Act referred to as "the trustees"), were empowered, with such consent as therein mentioned, to borrow on the security of the said lands any sum not exceeding one hundred and ten thousand pounds for the purposes therein mentioned, and subject to the provisions of the said Act in that behalf to secure the repayment of such sum by an assignment for the said term of the said lands or any part thereof; and the trustees were also empowered to lease the building lands, and to sell, exchange, or partition all the said lands upon the terms in the manner and subject to the conditions by the said Act prescribed; and by section 25 of the said Act it was provided that any assignment of the said lands for

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And whereas by Fleming's Estate Act, 1854, the said section 25 of Fleming's Estate Act, 1852, was repealed, and it was enacted that until the assignment of the said lands for the said term of one thousand two hundred years that term should be subject to the said powers of leasing, selling, exchanging, and partitioning, and that after such assignment such powers of leasing, selling, exchanging, and partitioning the said lands should be exercised only with the consent and concurrence in writing of the assignee or assignees of the said term :

And whereas by an indenture of mortgage, dated the fourth day of June one thousand eight hundred and fifty-five (in this Act referred to as "the mortgage of 1855"), and made between the said John Henry Hearn and Joseph Alfred Hardcastle of the first part, the said John Brown Willis Fleming of the second part, and Charles Shapland Whitmore and Sir Charles Alexander Wood, Knight, then and therein called Charles Alexander Wood, Esquire, of the third part, after reciting, amongst other things, Fleming's Estate Act, 1852, and a certain indenture of settlement of the twenty-second day of October one thousand eight hundred and forty-two referred to in the said Act and Fleming's Estate Act, 1854, and the several indentures of mortgage under which the several sums of ten thousand one hundred and eighteen pounds eighteen shillings and sixpence, three thousand pounds, and one thousand pounds, four thousand pounds, and twenty-six thousand pounds therein mentioned respectively were raised, and reciting that the said Charles Shapland Whitmore and Charles Alexander Wood had agreed to lend to the said John Henry Hearn and Joseph Alfred Hardcastle the sum of sixty-eight thousand two hundred pounds for the purpose of paying off the said several principal sums of ten thousand one hundred and eighteen pounds eighteen shillings and sixpence, three thousand pounds, one thousand pounds, four thousand pounds, and twenty-six thousand pounds, and the sum of sixteen thousand pounds part of the sum of forty thousand pounds provided by the said indenture of settlement of the twenty-second day of October one thousand eight hundred and forty-two, for portions of the daughters and younger sons of John Fleming therein described and appointed by his last will, and for the purposes of the said Act such further sums as the said Charles Shapland Whitmore and Charles Alexander Wood might be induced to lend, and the said John Henry Hearn and Joseph Alfred Hardcastle might be able to borrow under the said Act, upon having the same secured as therein-

after mentioned, and reciting five several indentures, bearing even date with the indenture now in recital, under and by virtue of which the said several principal sums of ten thousand one hundred and eighteen pounds eighteen shillings and sixpence, three thousand pounds, one thousand pounds, four thousand pounds, and twenty-six thousand pounds, and sixteen thousand pounds part of the said sum of forty thousand pounds, were assigned and otherwise dealt with as therein mentioned for better securing the said sum of sixty-eight thousand two hundred pounds as therein-mentioned, it was witnessed that, in consideration of the said sum of sixty-eight thousand two hundred pounds to the said John Henry Hearn and Joseph Alfred Hardcastle, paid by the said Charles Shapland Whitmore and Charles Alexander Wood, out of which sum the said John Henry Hearn and Joseph Alfred Hardcastle had paid the said sums of ten thousand one hundred and eighteen pounds eighteen shillings and sixpence, three thousand pounds, one thousand pounds, four thousand pounds, twenty-six thousand pounds, and sixteen thousand pounds, the said John Henry Hearn and Joseph Alfred Hardcastle, by virtue of the recited Acts, with the consent of the said John Brown Willis Fleming, assigned, and the said John Brown Willis Fleming confirmed, unto the said Charles Shapland Whitmore and Charles Alexander Wood the manors, messuages, lands, tenements, hereditaments, and premises specified and set forth in the schedule thereunder written, (including part of Fleming's Estates,) to hold the same (except as therein excepted) unto the said Charles Shapland Whitmore and Charles Alexander Wood, their executors, administrators, and assigns, thenceforth for the said term of one thousand two hundred years, subject as in the said indenture mentioned and to a proviso for redemption of the said premises on payment of the said sum of sixty-eight thousand two hundred pounds, at the time and in the manner in the said indenture mentioned, and also within the period of six months after the advancement thereof respectively of such further sums as should be advanced by the said Charles Shapland Whitmore and Charles Alexander Wood to the said John Henry Hearn and Joseph Alfred Hardcastle, with interest for the same after the rate, at the times, and in manner in the said indenture mentioned :

And whereas by Fleming's Estate Act, 1857, the said powers of leasing the building lands were, so far as relates to certain of the said lands specified in the said last-mentioned Act, altered and enlarged :

And whereas the said Charles Shapland Whitmore and Sir Charles Alexander Wood have since the date of the said indenture of mortgage advanced further sums of money to the said John Henry

A.D. 1877. Hearn and Joseph Alfred Hardcastle, secured by further indentures of mortgage of the premises comprised in the mortgage of 1855, out of which sums of money the said John Henry Hearn and Joseph Alfred Hardcastle have paid the sum of twenty-four thousand pounds residue of the said sum of forty thousand pounds so due for portions as aforesaid, and certain other sums of money charged on the premises therein comprised :

And whereas a sum of twenty-four thousand pounds was on the twentieth day of July one thousand eight hundred and seventy-five paid to the said Charles Shapland Whitmore and Sir Charles Alexander Wood in part payment of the moneys secured by the said indentures of mortgage, and there is now due to the said Charles Shapland Whitmore and Sir Charles Alexander Wood, under and by virtue of the said indentures of mortgage, the principal sum of sixty-nine thousand six hundred pounds :

And whereas portions of Fleming's Estates are, under and by virtue of several absolute orders under the seal of the Inclosure Commissioners of England and Wales made in pursuance of The Land Loan and Enfranchisement Company's Act, 1860, and set forth in the first column of the Schedule A. to this Act annexed, charged, during the periods mentioned in relation to such absolute orders respectively in the second column of the said schedule, with the yearly payments by way of rentcharge of the amounts respectively specified in the third column of the said schedule :

And whereas by an indenture bearing date the sixteenth day of September one thousand eight hundred and seventy, and made between John Brown Willis Fleming in the recited Acts mentioned and described of the first part, Ida Mary Sheldon Fleming (then Ida Mary Sheldon Weston) of the second part, and Raphael Brandon and Joseph Burgin of the third part, being an indenture made in contemplation of the marriage then intended and subsequently solemnized between the said John Brown Willis Fleming and the said Ida Mary Sheldon Fleming; the said John Brown Willis Fleming being then tenant for life in possession of Fleming's Estates, in exercise of the powers enabling him in that behalf, appointed a sum of one thousand five hundred pounds per year to be paid to the said Ida Mary Sheldon Fleming during her life if she should survive him, the said John Brown Willis Fleming (which event happened), and demised certain of the lands, tenements, hereditaments, and premises forming part of Fleming's Estates, and specified and set forth in the First and Second Schedules thereunder written, subject as therein mentioned for a term of three hundred years upon trust for better securing the said annuity :

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And whereas by an order of the High Court of Chancery, dated the thirtieth day of April one thousand eight hundred and seventy-five, made upon a petition presented in the matter of the trusts of an indenture of charge, dated the sixteenth day of September one thousand eight hundred and seventy, made between John Brown Willis Fleming of the first part, Ida Mary Sheldon Weston of the second part, and Raphael Brandon and Joseph Burgin of the third part, and in the matter of The Trustee Acts, 1850 and 1852, the said Court did appoint Richard Pink, junior, of Hambledon, in the county of Hants, land agent, trustee of the same indenture in substitution for the said Joseph Burgin, and to act in conjunction with the said Raphael Brandon; and it was also ordered that the residue of the trust term of three hundred years created by the said indenture then to come and unexpired should vest in the said Raphael Brandon and Richard Pink, junior, as the trustees of the said indenture for the estate, term, and interest of the said Raphael Brandon and Joseph Burgin as the trustees thereof:

And whereas the said John Brown Willis Fleming duly made and executed his last will and testament in writing bearing date the fourteenth day of February one thousand eight hundred and seventy-two, and thereby appointed the said Ida Mary Sheldon Fleming and Edward Lambert guardians of the person and estate of his son John Edward Arthur Willis Fleming, and of any other child or children he might have by his said wife:

And whereas the said John Brown Willis Fleming died on the twenty-seventh day of May one thousand eight hundred and seventy-two without having altered or revoked his said will, leaving one child only, the said John Edward Arthur Willis Fleming, who was born on the sixth day of November one thousand eight hundred and seventy-one, him surviving:

And whereas the said John Edward Arthur Willis Fleming is now tenant in tail in possession of the Fleming Estates:

And whereas Thomas James Willis Fleming, in the said Fleming's Estate Act, 1852, mentioned, on the twenty-fifth day of November one thousand eight hundred and forty-five, intermarried with Henrietta Caroline Sophia Hunter, and the said Thomas James Willis Fleming and Henrietta Caroline Sophia his wife are still living: And whereas there has been issue of the said marriage seven children, and no more, viz., Euphemia Katherine, who was born on the thirteenth day of December one thousand eight hundred and forty-six, and who on the first day of June one thousand eight hundred and sixty-eight intermarried with and is now the wife of Robert Drummond Hay; Julia, who was born on or about the fourteenth day of June one thousand eight hundred and fifty, and has

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And whereas Henry William Willis Fleming, in the said Fleming's Estate Act, 1852, mentioned, died on the second day of February one thousand eight hundred and fifty-five, a bachelor:

And whereas Arthur Buchanan Willis Fleming, in the said Fleming's Estate Act, 1852, mentioned, is still living, and is a bachelor:

And whereas Honoria Armstrong, in the said Fleming's Estate Act, 1852, mentioned, is now a widow, her husband having died on or about the fourteenth day of April one thousand eight hundred and fifty-six; she has one child only, William Bigoe Armstrong, who was born on the thirtieth day of November one thousand eight hundred and thirty-nine:

And whereas Christopheria Catherine Fleming, in the said Fleming's Estate Act, 1852, mentioned, died on the third day of August one thousand eight hundred and sixty-six, and without having been married:

And whereas Harriet Elizabeth Vansittart, in the said Fleming's Estate Act, 1852, mentioned, has had issue nine children, and no more, viz., Katharine Caroline, who was born on the twenty-ninth day of October one thousand eight hundred and forty-six, and who on the fourteenth day of January one thousand eight hundred and sixty-nine intermarried with and is now the wife of Thomas Campbell; Fanny, who was born on the seventeenth day of September one thousand eight hundred and forty-seven, and on the

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twenty-sixth day of April one thousand eight hundred and sixty-six intermarried with and is now the wife of Walter Long; Bertha, who was born on the eleventh day of November one thousand eight hundred and forty-eight, and is a spinster; Edith, who was born on or about the twelfth day of January one thousand eight hundred and fifty, and on the twenty-fifth day of August one thousand eight hundred and seventy intermarried with and is now the widow of Robert Peel Wethered, who died on the second day of November one thousand eight hundred and seventy-three; Robert Arnold, who was born on or about the twenty-first day of October one thousand eight hundred and fifty-one, and is a bachelor; Mary Emily, who was born on or about the ninth day of January one thousand eight hundred and fifty-five, and who on the nineteenth day of January one thousand eight hundred and seventy-six intermarried with and is now the wife of Henry Corry Fitzherbert; Louisa Charlotte, who was born on or about the eighteenth day of March one thousand eight hundred and fifty-six, and is a spinster; Constance Mary, who was born on or about the twentieth day of January one thousand eight hundred and fifty-eight, and is a spinster; and Evelyn Jane, who was born on or about the twenty-first day of August one thousand eight hundred and sixty-one, and is a spinster:

And whereas Robert Vansittart, in the same Act mentioned, the husband of the said Harriet Elizabeth Vansittart, died on the second day of May one thousand eight hundred and seventy-two:

And whereas Charlotte Jane Hambrough, in the said Fleming's Estate Act, 1852, mentioned, has had issue ten children, and no more, viz., Kathleen Sophia, who was born on the seventh day of July one thousand eight hundred and forty-six, and who on the fifth day of October one thousand eight hundred and sixty-nine intermarried with and is now the wife of John Henry Cheape; Charlotte Anne, who was born on the sixteenth day of August one thousand eight hundred and forty-seven, and died on the eleventh day of May one thousand eight hundred and seventy, without having been married; Dudley Albert, who was born on the fourth day of February one thousand eight hundred and forty-nine, and on the second day of October one thousand eight hundred and seventy-one intermarried with Marion Mathews, and has issue two children, and no more, viz., Windsor Dudley Cecil, who was born on the sixteenth day of May one thousand eight hundred and seventy-three, and Ethel Annabella Charlotte Mary, who was born on the third day of October one thousand eight hundred and seventy-four; Mary Elizabeth, who was born on or about the

A.D. 1877. twenty-third day of September one thousand eight hundred and fifty, and is a spinster; Gertrude Julia, who was born on or about the fifteenth day of May one thousand eight hundred and fifty-three, and is a spinster; Windsor de Burgh, who was born on or about the first day of October one thousand eight hundred and fifty-four, and is a bachelor; Arthur Henry Kerr, who was born on the fourteenth day of January one thousand eight hundred and fifty-six, and is a bachelor; Catherine Louisa, who was born on the thirty-first day of March one thousand eight hundred and fifty-seven, and is a spinster; Otho Oldisworth Le Marchant, who was born on the ninth day of September one thousand eight hundred and fifty-eight, and is a bachelor; and Norah Caroline, who was born on the thirtieth day of March one thousand eight hundred and sixty, and is a spinster:

And whereas the said Albert John Hambrough, in the said Fleming's Estate Act, 1852, mentioned, husband of the said Charlotte Jane Hambrough, died on the sixth day of June one thousand eight hundred and sixty-one, and the said Charlotte Jane Hambrough, on the twenty-second day of July one thousand eight hundred and sixty-seven, intermarried with William Verner, a lieutenant-colonel in Her Majesty's Army, and died on the tenth day of November one thousand eight hundred and seventy-four, without having had any issue by her second marriage:

And whereas Christopheria Lady Downes, in the said "Fleming's Estate Act, 1852," mentioned, died on the eighteenth day of October one thousand eight hundred and sixty:

And whereas the said John Henry Hearn, one of the trustees mentioned in "The Fleming's Estate Act, 1852," died on the thirteenth day of October one thousand eight hundred and seventy-one, and under and by virtue of an indenture dated the thirteenth day of May one thousand eight hundred and seventy-two, and by an order of the High Court of Chancery made on the twelfth day of June one thousand eight hundred and seventy-two in the matter of the trusts of the indentures of settlement of the twenty-eighth day of February one thousand eight hundred and thirty-seven, and the twenty-second day of October one thousand eight hundred and forty-two, and in the matter of "The Fleming's Estate Act, 1852," and the matter of "The Trustee Acts, 1850 and 1852," it was ordered that the said Edward Lambert should be appointed a trustee in substitution for John Henry Hearn deceased, and jointly with the said Joseph Alfred Hardcastle, of the indenture of settlement of twenty-second October one thousand eight hundred and forty-two, and of the term of one thousand two hundred years created by "The Fleming's Estate Act, 1852," and it was ordered

that all the estate and interest of the said John Henry Hearn, deceased, of and in the lands and choses in action comprised in or subject to the trusts of the same settlement and term respectively (subject nevertheless to and with and for such of the uses, powers, and purposes concerning the same, under or by virtue of the same settlement and Act of Parliament as then remained undetermined, and capable of taking effect) should vest in the said Edward Lambert jointly with the said Joseph Alfred Hardcastle as such trustees as aforesaid :

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And whereas William Bigoe Buchanan, one of the trustees of a term of two thousand years under the said indenture of settlement of the twenty-second day of October one thousand eight hundred and forty-two, in the Act of 1852 mentioned, died on the fourteenth day of January one thousand eight hundred and seventy-three, and by an order of the High Court of Chancery made on the fifth day of March one thousand eight hundred and seventy-three Edward Augustus Dearman Brooshooft was duly appointed to act as a trustee in the place of the said William Bigoe Buchanan :

And whereas certain parts of Fleming's Estates have, under and by virtue of the powers in that behalf, been sold and exchanged by the trustees, and other lands have been purchased or taken in exchange, and the lands so purchased and taken in exchange are now limited to the same uses as the lands so sold or exchanged were subject to at the time of such sale and exchange :

And whereas the Fleming's Estates now consist, together with certain sums of stock and cash, of the several manors, lands, messuages, tenements, and hereditaments more particularly described in the Schedule B. to this Act annexed, and the same are in this Act referred to as "Fleming's Estates" :

And whereas a Bill of Complaint was filed in the High Court of Chancery on the twenty-first day of June one thousand eight hundred and seventy-two by the said John Edward Arthur Willis Fleming, an infant under the age of twenty-one years, as plaintiff, by the Reverend Edward John Treffry, his next friend, against the said Joseph Alfred Hardcastle, Edward Lambert, William Bigoe Buchanan, John Horton, and Ida Mary Sheldon Fleming, as defendants, praying (amongst other things) that the said John Edward Arthur Willis Fleming should be made a ward of the said High Court of Chancery, and his person and property placed under its protection, and thereupon, on the twenty-second day of June one thousand eight hundred and seventy-two, his Honour Vice-Chancellor Sir Richard Malins, Knight, before whom the said Bill of Complaint was heard, made his decree directing that certain inquiries therein specifically set forth should be made, and that a proper person should be appointed to receive the rents and profits

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of the Fleming family estates, in the Bill mentioned, without prejudice to the rights of any mortgagees or mortgagee of the said estates, or any or either of them, and that the tenants of the said estates should attorn and pay their rents in arrear and growing rents to such receiver, and that such receiver should from time to time pass his accounts and pay the balances certified to be due from him into the bank, with the privity of the Accountant General of the Court, to the credit of Fleming v. Hardcastle, 1872, F. 62, and that such balance, when so paid in, should be invested in Bank three pounds per centum annuities in the name of the Accountant General in trust in the said cause, and that the interest to accrue due on such Bank annuities, when so purchased, and all accumulations of interest thereon respectively, should be from time to time invested in like manner in trust as aforesaid :

And whereas by an order made by his Lordship the Vice-Chancellor Sir Richard Malins, dated the seventeenth day of March one thousand eight hundred and seventy-six, and made in the said cause wherein the said John Edward Arthur Willis Fleming, by the Reverend Edward John Treffry, his next friend, was plaintiff, and Joseph Alfred Hardcastle, Edward Lambert, William Bigoe Buchanan, since deceased, John Horton, and Ida Mary Sheldon Fleming, and Edward Augustus Dearman Brooshooft, by order of revivor, were defendants, upon the petition of the defendants, Joseph Alfred Hardcastle and Edward Lambert, the Court did order that the said petitioners be at liberty to apply to Parliament for an Act vesting in the petitioners, or the trustees or trustee for the time being of Fleming's Estates, such powers and authorities as are in this Act contained, such Act to be settled by the judge in chambers, and to include such provisions as the judge should think necessary in consequence of any difficulties or doubts which might arise, or any circumstances which might occur after the date of the said order, and before the final settlement of the proposed Act, and the petitioners should be at liberty to apply in chambers for the purposes aforesaid ; and it was further ordered that the costs of the petitioners, and of all persons appearing thereon, of, incident to, and consequent upon the said application, including the costs of the settlement of the said Bill in chambers, and of the said applications to Parliament, should be taxed as between solicitor and client, and that the petitioners should be at liberty to pay the amount of such costs out of the funds in their hands forming part of the surplus income of the said trust estate, and be allowed them on passing their accounts :

And whereas by certificate of the chief clerk of the Vice-Chancellor Sir Richard Malins it is certified that a draft of a Bill (being the Bill for this Act, and which draft is identified by the

signature of the said chief clerk in the margin thereof) has been settled and approved by the judge pursuant to the said order, the several acts, instruments, statements, facts, and events recited in the preamble of such draft herein-before in recital of the said certificate having been first proved in the said cause, and such certificate has been duly approved by the said judge, and filed in the Report Office of the Chancery Division of the High Court of Justice :

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And whereas the said Charles Shapland Whitmore died on the seventeenth day of May one thousand eight hundred and seventy-seven :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

Wherefore Your Majesty's most dutiful and loyal subjects, John Edward Arthur Willis Fleming, by the Reverend Edward John Treffry, his next friend, Joseph Alfred Hardcastle, and Edward Lambert, do most humbly beseech Your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; (that is to say,)

1. This Act may be cited for all purposes as Fleming's Estate Act, 1877 ; and Fleming's Estate Act, 1852, Fleming's Estate Act, 1854, and Fleming's Estate Act, 1857, may for all purposes be cited together as Fleming's Estate Acts, 1852 to 1857.

Short titles of this Act and of former Acts.

2. From and after the passing of this Act, Fleming's Estate Acts, 1852 to 1857, shall be read and construed subject to the modifications and qualifications following in this Act contained.

Amendment of Fleming's Estate Acts, 1852 to 1857.

3. All the provisions of Fleming's Estate Acts, 1852 to 1857, with respect to the granting of leases of the building lands as defined by Fleming's Estate Act, 1852, and to the terms, rents, considerations, liberties, reservations, powers, conditions, covenants, and provisions upon, with, or subject to which such leases may be granted, and to the surrender of lands held under any leases or contracts for leases, and to the grant of new leases, and to contracts for leases, and the conditions upon which the same may be made, and as to conditions, additions, explanations, and alterations in and to such contracts, and the relinquishment and abandonment of the same, and to the carrying the same into effect, or the release of parties thereto, and to the surrender or relinquishment of any lands comprised in any such contract, and to the apportionment of conditions of re-entry in any lease, and to underleases, and to the power to confirm certain void or voidable leases, or to grant new leases in lieu thereof, and to the validity of certain leases notwithstanding

Extension of leasing powers.

A.D. 1877. — defects in contracts, and as to contracts not forming part of the title to any lease, and as to evidence of counterparts, and as to the disposition of lands of which possession should be recovered, and to the improvement of the building lands, and as to the payment of sums in gross to the trustees, and the application of moneys received in respect of any lease or contract for a lease of any of the said lands, and as to the power of making partition of certain lands, and all the powers and authorities whatsoever which at the time of the passing of this Act may be exercised and enjoyed with respect to leases or contracts for leases of the building lands, or which may affect the same, under and by virtue of Fleming's Estate Acts, 1852 to 1857, shall, as amended by this Act, apply to and may be exercised and enjoyed with respect to, and shall affect all the lands mentioned in the Schedule B. to this Act annexed, except such of those lands as are mentioned in Schedule C. to this Act annexed, and all such provisions, powers, and authorities, so far as they relate to or affect any parts of Fleming's Estates not heretofore subject to the same, shall be in substitution for and not in addition to any other provisions with respect to the like purposes in force immediately before the passing of this Act: Provided always, that nothing herein-before contained shall affect any sale, exchange, lease, contract, act, matter, or thing in relation to such last-mentioned lands duly made, done, or suffered before the passing of this Act.

Surrender
of lands held
under leases.

4. The powers contained in section forty-seven of Fleming's Estate Act, 1852, with respect to the surrender of lands leased for building purposes, and the leasing of the same or any part of the same when surrendered, are hereby extended, and shall be construed to authorise the acceptance of the surrender of any lands constituting part of Fleming's Estates heretofore or hereafter to be leased, whether for building purposes or any purposes whatsoever, and to authorise the leasing of the lands so surrendered, or any part of the same, for building purposes, or in case of the same, or any part of the same, not being in the opinion of the trustees or of the tenant for life, as the case may be, suited for building purposes for such other purposes as the trustees or the tenant for life, as the case may be, shall think proper, subject to the provisions of Fleming's Estate Acts, 1852 to 1857, as amended by this Act.

As to leases
granted after
surrenders.

5. Where, upon the surrender of any lands held under any existing or future lease for building purposes, a new lease for a term not exceeding the then unexpired residue of the term of the lease so surrendered shall be made of the lands so surrendered, or of any part of the same, together with other additional lands to the person making such surrender, then, in estimating the best yearly

rent to be reserved upon any such lease as prescribed by Fleming's Estate Acts, 1852 to 1857, the trustees or the tenant for life, as the case may be, may have regard to all the circumstances of the case, and in fixing the amount of such yearly rent it shall not be necessary to take into account against such person the increase (if any) in the value of the premises surrendered by him arising from any improvement executed by him, or by any person by, under, or through whom he shall have acquired the lessee's interest under the lease so surrendered: Provided that the best yearly rent that can reasonably be had shall be reserved in respect of such additional lands, and also that no fine or premium shall be taken for the granting of any such lease.

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6. The provisions contained in sections fifty-four, fifty-five, and fifty-six of Fleming's Estate Act, 1852, as to contracts therein specified with respect to leases for building purposes, and the alteration, rescission, and abandonment of the same and the release of parties thereto, and the surrender or relinquishment of any lands comprised in any such contract, shall apply to and include all contracts which at the time of the passing of this Act may have been made by the tenant for life or the trustees, or which after the passing of this Act the trustees or the tenant for life may from time to time make with respect to leases of any lands forming part of Fleming's Estates, and all such other matters in relation thereto as aforesaid.

Extension of provisions contained in sections 54, 55, and 56 of Fleming's Estate Act, 1852.

7. In leases for building purposes to be made in pursuance of Fleming's Estate Acts, 1852 to 1857, and of this Act, or any of them, there may be contained such covenants, conditions, and stipulations as the judge to whose court the said cause shall be for the time being attached may deem expedient with reference to the special circumstances of such leases respectively.

As to special covenants, &c. in building leases.

8. Section two of Fleming's Estate Act, 1857, shall be and the same is hereby repealed, and in lieu thereof the following provisions shall be in force and have effect; (that is to say,)

Leases of lands situate within certain defined limits, and repeal of section 2 of Fleming's Estate Act, 1857.

Whenever the trustees or the tenant for life shall grant any lease of any part of Fleming's Estates situate within the distance of one mile from Stoneham Park or from the grounds of Chilworth House or of Binstead Cottage, such lease may be made on such terms and conditions as to accommodation lands or ornamental pleasure grounds in connexion with villa residences, or with other lands agreed to be annexed to any such villa residences or lands as aforesaid, as they or he may think expedient, and either with or without obligation or

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liberty to build thereafter any villa residence or residences thereon, or to make any other improvements thereof, with such restrictions, if any, as they or he may think proper against the erecting at any time thereon of any cottages or other buildings of small value other than lodges, gardeners cottages, or other buildings connected with the occupation or enjoyment of the demised premises for the purposes of a villa residence or residences, and also against the use of any building at any time erected thereon in any manner injurious or offensive to Stoneham Park, Chilworth House, or Binstead Cottage, or the owners or occupiers thereof respectively :

Provided always, that in every case where any villa residence or residences may have been erected on any land in respect of which any such lease shall be granted previous to the date of the making or granting of such lease, or the contract for the same, where any such contract has been entered into, and by such lease liberty to build thereafter any villa residence or residences on the land thereby demised, in addition to the villa residence or residences previously erected on the said lands as aforesaid, shall be granted, then the trustees or the tenant for life may (as in their or his absolute discretion they or he may think advisable) either reserve a gross yearly rent in respect of such premises, in accordance with the general provisions of Fleming's Estate Acts, 1852 to 1857, as amended by this Act, or may reserve such an original yearly rent to become payable not later than five years from the day of the date of such lease, as would be the best and most beneficial which could at the time of the making or granting of such lease, or the contract for the same, have been reasonably had for the same if the liberty to build any additional villa residence or residences as aforesaid had not been thereby granted, and shall in such case also reserve such additional yearly rent in respect of every such additional villa residence as aforesaid, and to become payable in addition to the original yearly rent only in the event of such additional villa residence being thereafter built, and to be charged on and issuing out of the premises by such lease demised as shall be the best and most beneficial additional yearly rent which can at the time of the making or granting of such lease, or the contract for the same, and considering the nature and circumstances of the case, be reasonably obtained, and such additional rent shall be made payable quarterly from a time not later than the time when the additional villa residence in respect of which the same is reserved shall be fit for habitation and use.

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9. No lease purporting to have been heretofore granted under the authority of Fleming's Estate Acts, 1852 to 1857, or any of them, shall be invalidated by reason of the covenant for insurance in such lease contained being restricted to "buildings or constructions" which shall have been roofed in, instead of including "all buildings and constructions on the lands leased and susceptible of damage by fire," as required by the forty-first section of the Fleming's Estate Act, 1852.

Leases not to be invalidated by a certain informality.

10. The provisions of Fleming's Estate Acts, 1852 to 1857, as amended by this Act, shall from time to time apply to, comprise, and be exerciseable with respect to all and any of the lands which may be from time to time hereafter settled to the uses for the time being affecting Fleming's Estates, or any part thereof, and to the moneys arising from the exercise, with respect to such lands, of any of the provisions of Fleming's Estate Acts, 1852 to 1857, as amended by this Act.

Act to extend to all lands settled to uses of settled estates.

11. Fleming's Estate Acts, 1852 to 1857, as amended by this Act, and this Act shall be construed as one Act.

Construction of Acts.

12. The trustees shall pay all the costs, charges, and expenses of preparing and obtaining this Act, or incidental thereto, out of any moneys now or hereafter in their hands, and applicable for any of the purposes of Fleming's Estate Acts, 1852 to 1857, as amended by this Act.

Costs of Act.

13. And whereas the said Willis Hunter Armstrong Willis Fleming, Euphemia Katherine Drummond Hay, and Robert Drummond Hay are now resident abroad, and their respective consents to this Act have not been proved: Therefore this Act, or anything therein contained, shall not be of any effect as against the said Willis Hunter Armstrong Willis Fleming, Euphemia Katherine Drummond Hay, and Robert Drummond Hay respectively, or as against any person claiming or to claim by or under them respectively, any right or interest whatsoever now vested in them respectively, until they respectively signify their respective consents to this Act by writing under their hands respectively, attested by at least one witness, and such writing be enrolled in the Chancery Division of the High Court of Justice within three years after the passing of this Act, and after the enrolment of such consents respectively they shall respectively be deemed part of this Act, and be as binding and conclusive upon the said Willis Hunter Armstrong Willis Fleming, Euphemia Katherine Drummond Hay, and Robert Drummond Hay respectively, and all persons claiming or to claim by or under them respectively, as if such consents respectively had been obtained and proved before the passing of this Act, and such con-

As to the consents of Willis Hunter Armstrong Willis Fleming, Euphemia Katherine Drummond Hay, and Robert Drummond Hay to this Act.

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“ I, Willis Hunter Armstrong Willis Fleming (*or* Euphemia Katherine Drummond Hay, *or* Robert Drummond Hay) do hereby consent to Fleming's Estate Act, 1877.”

Provided always, that if the said Willis Hunter Armstrong Willis Fleming, Euphemia Katherine Drummond Hay, and Robert Drummond Hay, any or either of them, die before signing such consents respectively, then this clause, and the restriction therein contained (so far only as the same applies to or concerns them, her, or him so dying, and all persons claiming by or under them, her, or him respectively), shall be absolutely void to all intents and purposes whatsoever.

General saving.

14. Saving always to the Queen's most Excellent Majesty, her heirs and successors, and to every other person or body politic and corporate, and their respective heirs, successors, executors, and administrators (other than and except the several persons who are by this Act expressly excepted out of this general saving), all such estate, right, title, interest, claim, and demand whatsoever of, in, to, or out of Fleming's Estates, or any part thereof, as they or any of them had before the passing of this Act, or would, could, or might have had if this Act had not been passed.

Persons excepted from the general saving, and accordingly bound by Act.

15. Provided always, that the following persons are excepted out of the general saving in this Act contained, and accordingly are the only persons bound by this Act; (that is to say,)

The said John Edward Arthur Willis Fleming, and the heirs of his body, and any wife or wives of the said John Edward Arthur Willis Fleming;

The said Ida Mary Sheldon Fleming, her heirs, executors, administrators, and assigns;

The said Thomas James Willis Fleming, his heirs, executors, administrators, and assigns, and the said Henrietta Caroline Sophia Fleming, and any future wife or wives of the said Thomas James Willis Fleming;

The said Willis Hunter Armstrong Willis Fleming, and the heirs of his body;

The said Cecil Chandos Pole Willis Fleming, and the heirs of his body;

The sons of the said Thomas James Willis Fleming hereafter to be born, and the heirs of their respective bodies;

The said Euphemia Katherine Drummond Hay and Robert Drummond Hay, and any after taken husband of the said Euphemia Katherine Drummond Hay, and the heirs of her body;

The said Julia Hamilton and the said Gavin Charles Hamilton, and any after taken husband of the said Julia Hamilton, and the heirs of her body ;

The said Gertrude Callender and the said John Mayson Callender, and any after taken husband of the said Gertrude Callender, and the heirs of her body ;

The said Honor Fleming, and the heirs of her body, and any future husband of the said Honor Fleming ;

The daughters hereafter born of the said Thomas James Willis Fleming, and the heirs of their respective bodies ;

The said Arthur Buchanan Willis Fleming, his heirs, executors, administrators, and assigns ;

The first and other sons of the said Arthur Buchanan Willis Fleming, and the heirs of their respective bodies ;

The first and other daughters of the said Arthur Buchanan Willis Fleming, and the heirs of their respective bodies ;

Any wife or wives of the said Arthur Buchanan Willis Fleming ;

The said Honoria Armstrong, and the heirs of her body ;

The said William Bigoe Armstrong, and the heirs of his body ;

The said Harriet Elizabeth Vansittart, and the heirs of her body ;

The said Robert Arnold Vansittart, and the heirs of his body ;

Any younger sons of the said Harriet Elizabeth Vansittart, and the heirs of their respective bodies ;

The said Katharine Caroline Campbell, Fanny Long, Bertha Vansittart, Edith Wethered, Mary Emily Fitzherbert, Louisa Charlotte Vansittart, Constance Mary Vansittart, and Evelyn Jane Vansittart, and any younger daughters of the said Harriet Elizabeth Vansittart, and the heirs of their respective bodies, and the said Thomas Campbell, Walter Long, and Henry Corry Fitzherbert, and any after taken husbands of the said respective daughters of the said Harriett Elizabeth Vansittart ;

The said Dudley Albert Hambrough, and the heirs of his body ;

The said Windsor de Burgh Hambrough, and the heirs of his body ;

The said Arthur Henry Kerr Hambrough, and the heirs of his body ;

The said Otho Oldisworth Le Marchant Hambrough, and the heirs of his body ;

The said Kathleen Sophia Cheape, Mary Elizabeth Hambrough, Gertrude Julia Hambrough, Catherine Louisa Hambrough, and Norah Caroline Hambrough, and the heirs of their respective bodies, and the said John Henry Cheape, and any

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after taken husband of the said respective daughters of the said Charlotte Jane Hambrough ;

The said Edward Lambert and Ida Mary Sheldon Fleming, as guardians of the person and estate of the said John Edward Arthur Willis Fleming, and any future guardian of the person and estate of the said John Edward Arthur Willis Fleming ;

The said Joseph Alfred Hardcastle and Edward Lambert, as the trustees, and every other person being or hereafter becoming one of the trustees within the meaning of the term "the trustees," as defined in and for the purposes of Fleming's Estate Act, 1852, and their respective executors, administrators, and assigns ;

The said John Horton and Edward Augustus Dearman Brooshooft, as trustees of the said term of two thousand years under the said indenture of settlement of the twenty-second day of October one thousand eight hundred and forty-two, and every other person being or hereafter becoming one of such last-mentioned trustees, and their respective executors, administrators, and assigns ;

The said Raphael Brandon and Richard Pink, junior, trustees under the said indenture of settlement of the sixteenth day of September one thousand eight hundred and seventy, and of the term of three hundred years thereby limited, and every other person being or hereafter becoming one of such last-mentioned trustees, and their respective executors, administrators, and assigns ;

The said Sir Charles Alexander Wood, as surviving mortgagee under the said indenture of the fourth day of June one thousand eight hundred and fifty-five, and his executors, administrators, and assigns ;

And generally such of the persons by the ninety-third section of The Fleming's Estate Act, 1852, excepted out of the general saving effected by that section as still retain or are capable of acquiring the estates or interests in respect of which they were so excepted.

Act as
printed by
the Queen's
Printers to
be evidence.

16. This Act shall not be a Public Act, but shall be printed by the several printers to the Queen's most Excellent Majesty duly authorised to print the statutes of the United Kingdom, and a copy thereof so printed by any of them shall be admitted as evidence thereof by all judges, justices, and others.

The SCHEDULES before referred to.

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SCHEDULE A.

Date of Order of Inclosure Commissioners.	Period for which lands are charged.	Annual Payment.
5 October 1865 - - -	Twenty-five years -	£ 91 s. 10 d. 2
3 May 1866 - - -	" " -	84 1 6
6 December 1866 - - -	" " -	57 7 10
18 October 1867 - - -	" " -	53 18 11
28 May 1868 - - -	" " -	55 6 5
4 March 1869 - - -	" " -	25 4 6
14 October 1869 - - -	" " -	36 14 1
9 June 1870 - - -	" " -	20 6 8

SCHEDULE B.

PARTICULARS OF THE FLEMING'S ESTATES.

The manor and lordship of North Stoneham in the county of Southampton, with its rights, royalties, members, and appurtenances.

The advowson and rectory of the church of North Stoneham.

The alternate presentation to the parish church of Timsbury, in the said county of Southampton.

The manors or lordships of Romsey Extra and Romsey Infra, in the county of Southampton, with their rights, royalties, members, and appurtenances.

Tithes, and rentcharges in lieu of tithes, of the parishes of Romsey Infra and Romsey Extra, amounting to £542 0s. 2d. per annum or thereabouts.

The manors or lordships of Heasley, Cumbley, Quarr, Newnham, Binstead, Duxmore, and Rackland, in the Isle of Wight, so far as they at present exist, with their rights, royalties, members, and appurtenances.

The advowson of the vicarage of Arreton in the Isle of Wight.

The manor or lordship of Chilworth, in the said county of Southampton, with its rights, royalties, members, and appurtenances.

The impropriate rectory of Chilworth, and the tithes or rentcharge in lieu of tithes thereof.

The advowson of the vicarage of Chilworth.

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The annuities, tithe, rentcharge, fee farm rent, and rentcharges appurtenant to the said lands, amounting to £57 1s. 4d. per annum or thereabouts.

Certain rights of fishery in the River Itchen.

I. Farms, lands, tenements, and hereditaments situate in the parishes of North Stoneham, South Stoneham, and Otterbourne, in the county of Southampton, containing in the whole 4,510A. 1R. 28P.

II. Farms, lands, tenements, and hereditaments situate in the parishes of Baddesley and Chilworth, in the county of Southampton, containing in the whole 1,733A. 2R. 14P.

III. Farms, lands, tenements, and hereditaments situate in the parish of Romsey, in the said county of Southampton, 1,574A. 1R. 14P.

IV. Farms, lands, tenements, and hereditaments situate in the parishes of Arreton, Binstead, and Newchurch, in the Isle of Wight, containing in the whole 3,792A. 0R. 6P.

The summary of the acreage of the lands of the said Fleming's Estates is as follows:—

	A.	R.	P.
I.	4,510	1	28
II.	1,733	2	14
III.	1,574	1	14
IV.	3,792	0	6
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Total	11,610	1	22
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SCHEDULE C.

Binstead Cottage, and about eight acres of land, and a cottage adjoining, all in the parish of Binstead in the Isle of Wight, in the county of Southampton.

Stoneham Mansion, grounds, parks, and lands, and divers messuages, tenements, farms, and lands, situate in the parish of North Stoneham, in the county of Southampton, lying together and bounded northwardly by the road from Marlbrook Pond to a place called Middle in the said parish, and thence eastwardly by the road leading from Middle to the point where the same road meets the Botley and Romsey turnpike road, and thence southwardly by the Botley and Romsey turnpike road to the point where that road meets the Southampton and Winchester turnpike road, and westwardly by the Southampton and Winchester turnpike road from that point to Marlbrook Pond, and which said lands were stated in the Seventh Schedule to the Fleming's Estate Act, 1852, to contain by estimation 914A. 3R. 16P.

The wood now commonly called and known by the name of Hutt Wood situate in the parish of North Stoneham, and also divers lands lying to the northward thereof in the same parish and bounded by the turnpike road leading from Southampton to Winchester, on or towards the east by the boundary between the parishes of Stoneham and Chilworth, on or towards the west by

the road leading out of the Southampton and Winchester turnpike road to Romsey to the place where it meets the last-named boundary between the same parishes on or towards the north, and by the said wood on or towards the south, and which said wood and last-described lands contain together 452A. 0R. 31P. or thereabouts. A.D. 1877.

And divers lands situate in the parish of North Stoneham aforesaid, bounded on the east by the road leading from Middle to Woodside, on the west by the turnpike road from Southampton to Winchester, on the north by the road leading out of the said turnpike road from Southampton to Winchester to the point where it meets the road leading from Middle to Woodside, and on the south by the said road leading from Marlbrook Pond to Middle, and which lands contain together 380 acres or thereabouts.

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