CHAPTER 437

The Short Forms of Mortgages Act

1. In this Act,
   (a) "land" includes freehold or leasehold tenements and
       hereditaments, whether corporeal or incorporeal, and
       any undivided part or share therein;
   (b) "party" and "parties" include a body politic or corpo-
       rate as well as an individual. R.S.O. 1960, c. 374, s. 1;
       1967, c. 94, s. 1.

2.—(1) Where a mortgage of land, made according to the form
      set forth in Schedule A, or any other mortgage of land expressed to
      be made in pursuance of this Act, or referring thereto, contains
      any of the forms of words contained in Column One of Schedule B,
      and distinguished by any number therein, the mortgage has
      the same effects as if it contained the form of words in Column Two of
      Schedule B distinguished by the same number as is annexed to the
      form of words used in the mortgage; but it is not necessary in any
      such mortgage to insert any such number.

      (2) Where a blank occurs in any of the forms in Column Two
      the form shall be read as if it were filled in with the words that
      supply the place of the blank in the corresponding form in Column
      One. R.S.O. 1960, c. 374, s. 2.

3.—(1) Parties who use any of the forms in the first column of
      Schedule B may substitute for the word "mortgagor" or "mort-
     gagee" any name or other designation, and in every such case a
      corresponding substitution shall be taken to be made in the
      corresponding forms in the second column.

      (2) Such parties may substitute the feminine gender for the
      masculine, or the plural number for the singular, in any of the
      forms in the first column, and corresponding changes shall be
      taken to be made in the corresponding forms in the second column.

      (3) Such parties may introduce into or annex to any of the
      forms in the first column any express exceptions from or other
      express qualifications thereof respectively, and the like excep-
      tions or qualifications shall be taken to be made from or in the
      corresponding forms in the second column. R.S.O. 1960, c. 374,
      s. 3.
4. Any such mortgage, or part of such mortgage that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1960, c. 374, s. 4.

5. The period of time of default before which a mortgagee may serve notice of exercise of power of sale and the period of time after notice within which a sale may be provided for in the forms of words numbered 14 in Schedule B shall not be less than the respective times prescribed by section 31 of The Mortgages Act. 1964, c. 110, s. 1, part.

6. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with The Short Forms of Mortgages Act, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with Part III of The Mortgages Act, is as effectual as if The Short Forms of Mortgages Amendment Act, 1964 had not been passed. 1964, c. 110, s. 1, part.

SCHEDULE A

FORM OF MORTGAGE

This Indenture, made the ................ day of .................... one thousand nine hundred and ......................... in pursuance of The Short Forms of Mortgages Act, between (here insert the names of parties and recitals, if any). Witnesseth, that in consideration of ......................... of lawful money of Canada, now paid by the said mortgagee to the said mortgagor, the receipt whereof is hereby acknowledged, the said mortgagor doth grant and mortgage unto the said mortgagee, his heirs, executors, administrators and assigns for ever, all (parcels).

(Here insert provisions, covenants or other provisions)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1960, c. 374, Sched. A.
COLUMN ONE

1. And the said wife of the said mortgagor hereby bars her dower in the said lands.

2. Provided this mortgage to be void on payment of lawful money of Canada, with interest at per cent as follows:

3. The said mortgagor covenants with the said mortgagee:

4. That the mortgagor will pay the mortgage money and interest, and observe the above proviso.

COLUMN TWO

1. And the said wife of the said mortgagor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said mortgagee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said mortgagee, his heirs, executors, administrators, successors and assigns, all her dower, and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to, or out of the lands and premises hereby conveyed or intended so to be.

2. Provided always and there presents are upon this express condition that if the said mortgagor, his heirs, executors, administrators, successors or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators, successors or assigns the just and full sum or amount of principal money of lawful money of Canada with interest thereon at the rate of per cent per annum on the day and time and in the manner following, that is to say (terms of payment of principal and interest), without any deduction or abatement, and do and shall also pay any taxes, rates, levies, charges or assessments upon the said lands or in respect thereof no matter by whom or by what authority imposed which the said mortgagee, his executors, administrators, successors or assigns shall have paid or shall have been rendered liable to pay, and do and shall also pay all such other sums as the said mortgagee, his executors, administrators, successors or assigns may be entitled to by virtue of these presents, then these presents and everything in the same shall be absolutely null and void; but nothing in this proviso or these presents shall make the mortgagor, his heirs, executors, administrators, successors or assigns liable to pay to the mortgagee, his executors, administrators, successors or assigns any tax, rate or charge imposed upon the mortgagee, his heirs, executors, administrators, successors or assigns in respect of the income derived by him or them in respect of the mortgage money or in respect of the devolution of the interest of the said mortgagee in the said lands or mortgage money.

3. And the said mortgagor doth hereby, for himself, his heirs, executors, administrators and successors covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators, successors and assigns, in manner following, that is to say:

4. That the said mortgagor, his heirs, executors, administrators and successors or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators, successors or assigns, the said sum of money in the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limited for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfill and keep all and singular the provisions, agreements and stipulations in the said above proviso.
COLUMN ONE

5. That the mortgagor has a good title in fee simple to the said lands.

6. And that he has the right to convey the said lands to the said mortgagee.

7. And that on default the mortgagor shall have quiet possession of the said lands.

8. Free from all encumbrances.

9. And that the said mortgagor will execute such fur-

COLUMN TWO

5. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements, hereditaments and all and singular other the premises hereinbefore described, with their and every of their appurtenances and of an and in every part and parcel thereof without any manner of trusts, reservations, limitations, provisos or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, encumber or defeat the same.

6. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators, successors and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.

7. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators, successors and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs, executors, administrators, successors or assigns or any other person or persons whomsoever.

8. And that free and clear and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, executions and recognizances, and of and from all manner of other charges or encumbrances whatsoever.

9. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in
10. And that the said mortgagor, his heirs, executors, administrators, successors and assigns shall and will, unless prevented by fire or inevitable accident, from time to time, and at all times hereafter, at the request and proper costs and charges of the said mortgagee, his heirs, executors, administrators, successors and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances thereto, unto the said mortgagee, his heirs, executors, administrators, successors and assigns, true and attested copies of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs, executors, administrators, successors and assigns.

11. And that the said mortgagor hath not at any time heretofore made, done, committed, executed or willfully or knowingly suffered any act, deed, matter
12. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than lawful money of Canada.

12. And also that the said mortgagor or his heirs, executors, administrators, successors or assigns shall and will forthwith insure unless already insured, and during the continuance of this security keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee, his heirs, executors, administrators, successors or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators, successors or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators, successors or assigns, the policy or policies or insurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators, successors or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.

13. And the said mortgagor hath released, remised and for every quitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators, successors and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel thereof, so as that neither the said mortgagor, his heirs, executors, administrators, successors or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators, successors or assigns, and the said lands, tenements, hereditaments and premises, subject as aforesaid, shall from henceforth forever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs, successors or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators, successors or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.
SCHEDULE

B

SHORT FORMS OF MORTGAGES

Chap. 437

COLUMN ONE

14. Provided that the said mortgagee on default of payment for

may on

notice enter

on and 'lease the

said lands or on de­

fault of payment for

may on

notice sell the said

lands.

COLUMN TWO

14. Provided always, and it is hereby declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, administrators, successors or assigns, shall make default in any payment of the said money or interest or any part of either of the same, according to the true intent and meaning of these presents, and of the proviso in that behalf hereinbefore contained, and—

shall have thereafter elapsed without such payment being made (of which default, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence), it shall and may be lawful to and for the said mortgagor to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed, or mentioned or intended so to be, and to receive and take the rents, issues and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, or of any part thereof as he or they shall think fit, and also on default as aforesaid and—

shall have thereafter elapsed and after giving written notice to the persons and in the manner and form prescribed by Part III of The Mort­
gages Act, not less than—previous, without any further con­
sent or concurrence of the said mortgagor, his heirs, executors, administrators, successors or assigns, to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, or any part or parts thereof, with the appurtenances, by public auction or private contract, or partly by public auction and partly by private contract, as to him or them shall seem meet, and to convey and assure the same when so sold unto the purchaser or purchasers of the same, or of his or their heirs, successors or assigns, or as he or they shall direct and appoint and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee, his heirs, executors, administrators, successors or assigns shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid unless the same shall happen by reason of his or their wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagor, his heirs, executors, administrators, successors or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he or they shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators, successors or assigns, by reason of any insurance upon the said premises or any
 COLUMN ONE  

Provided that the mortgagee may distrain for arrears of interest.

 COLUMN TWO

part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators, successors, or assigns, shall bear, sustain, or be put to for taxes, rents, insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any of the trusts in him or them hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid upon this further trust that the said mortgagee, his heirs, executors, administrators, successors or assigns, do and shall pay the surplus, if any, to the said mortgagor, his heirs, executors, administrators, successors or assigns, or as he or they shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs, executors, administrators, successors or assigns, convey and assure unto the said mortgagor, his heirs, executors, administrators, successors or assigns, or to such person or persons as he or they shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and encumbrance whatsoever by the said mortgagee, his heirs, executors, administrators, successors or assigns, in the meantime, but so as no person who shall be required to make or execute any such assurances, shall be compelled for the making thereof to go or travel from his usual place of abode: Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these presents, the said mortgagor, his heirs, executors, administrators, successors or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs, executors, administrators, successors and assigns in the said lands, tenements, hereditaments and premises as fully and effectually as he or they might have exercised and enjoyed the same in case the power of sale, and the other former proviso and trust incident thereto had not been herein contained.

15. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, administrators, successors or assigns, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators, successors or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time, be, or
16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

17. Provided that until default of payment the mortgagor shall have quiet possession of the said lands.

16. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned or intended so to be, or any part thereof, and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs, executors, administrators, successors or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered or within such time as, by the practice of the Supreme Court, relief therein could be obtained be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.

17. And provided also, and it is hereby further expressly declared and agreed by and between the parties to these presents, that until default shall happen to be made of or in the payment of the said sum of money hereby secured or mentioned, or intended so to be, or the interest thereof, or any part of either of the same, or the doing, observing, performing, fulfilling or keeping some one or more of the provisions, agreements or stipulations herein set forth, contrary to the true intent and meaning of these presents, it shall and may be lawful to and for the said mortgagor, his heirs, executors, administrators, successors and assigns, peaceably and quietly to have, hold, use, occupy, possess and enjoy the said lands, tenements, hereditaments, and premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues and profits thereof to his and their own use and benefit, without let, suit, hindrance, interruption, or denial of or by the said mortgagee, his heirs, executors, administrators, successors or assigns, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for him, her, them or any or either of them.

R.S.O. 1960, c. 374, Sched. B; 1964, c. 110, s. 2.