1914

c 117 Short Forms of Mortgages Act

Ontario
CHAPTER 117.

An Act respecting Short Forms of Mortgages.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as The Short Forms of Mortgages Act. 10 Edw. VII. c. 55, s. 1.

2. In this Act,

(a) "Land" shall include freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;

(b) "Party" and "Parties" shall include a body politic or corporate as well as an individual. 10 Edw. VII. c. 55, s. 2.

3.—(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, such mortgage shall have the same effect 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 such mortgage; but it shall not be necessary in any such mortgage to insert any such number.

(2) Where a blank occurs in any of the forms in Column Two such form shall be read as if it were filled in with the words which supply the place of the blank in the corresponding form in Column One. 10 Edw. VII. c. 55, s. 3.

4.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the words "Mortgagor" or "Mortgagee" any name or other designation; and in every such case corresponding substitutions 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 exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. 10 Edw. VII. c. 55, s. 4.

5. Any such mortgage, or part of such mortgage, which fails to take effect by virtue of this Act shall nevertheless be as effectual to bind the parties thereto as if this Act had not been passed. 10 Edw. VII. c. 55, s. 5.

[See also The Conveyancing and Law of Property Act, Rev. Stat. c. 109, s. 15.]

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 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 provisos, covenants or other provisions.)

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

10 Edw. VII. c. 55, Sched. A.

SCHEDULE B.

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

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 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 these presents are upon this express condition, that if the said mortgagor, his heirs, executors, administra-
### COLUMN ONE

void on payment oftors or assigns, or any of them, do and shall of law, well and truly pay or cause to be paid unto the full money of Canada, with interest of lawful money of Canada, at per with interest thereon, at the rate of cent., as follows: and performance and taxes of statute labour, without any deduction, defalcation or abatement out of the same for or in respect of any taxes, rates levies, charges, rents, assessments, statute labour or other impositions whatsoever already rated, charged, assessed or imposed or hereafter to be rated, charged, assessed or imposed by authority of Parliament or of the Legislature, or otherwise howsoever, on the said lands and tenements, hereditaments and premises with the appurtenances, on the said mortgagor, his heirs, executors, administrators or assigns, in respect of the said premises, or of the said money or interest, or any other matter or thing relating to these presents, and until such default as aforesaid shall and will well and truly pay, do and perform or cause to be paid, done and performed, all matters and things in this proviso hereinbefore set forth, then these presents and everything in the same contained shall be absolutely null and void.

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.

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

### COLUMN TWO

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

4. That the said mortgagor, his heirs, executors, administrators 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 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, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.

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 and in every part and
COLUMN ONE.

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

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

8. Free from all incumbrances.

9. And that the said mortgagee will execute such further assurances of the said lands as may be requisite.

COLUMN TWO.

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, incumber 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 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 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 or assigns or any other person or persons whomsoever.

8. And that free and clear and freely 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 incumbrances 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 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
the said mortgagor, his heirs, executors, ad-
ministrators and assigns and all and every
other person or persons whosoever having, or
lawfully claiming, or who shall or may have or
lawfully claim any estate, right, title, interest
or trust of, in, to or out of the lands, tenen-
tments, hereditaments and premises hereby
carried or mentioned or intended so to be,
with the appurtenances or any part thereof
by, from, under or in trust for him the said
mortgagor, his heirs, executors, administra-
tors, or assigns shall and will, from time to
time, and at all times thereafter, at the proper
costs and charges of the said mortgagee, his
heirs, executors, administrators and assigns,
make, do, suffer and execute, or cause or pro-
cure to be made, done, suffered and executed,
all and every such further and other reason-
able act or acts, deed or deeds, devices, con-
vveyances, and assurances in the law for the
further better and more perfectly and abso-
lutely conveying and assuring the said lands,
tenements, hereditaments and premises, with
the appurtenances, unto the said mortgagee,
his heirs, executors, administrators and assigns,
as by the said mortgagee, his heirs, executors,
administrators or assigns, or his or their counsel
learned in the law shall or may be lawfully
and reasonably devised, advised, or required,
but as no person who shall be required
to make or execute such assurances shall be
compelled, for the making or executing there-
of, to go or travel from his usual place of
abode.

10. And that the
said mortgagor
will produce the
title deeds enum-
ated hereunder,
and allow copies to
be made at the ex-
 pense of the mort-
gagee.

10. And also, that the said mortgagor, his
heirs, executors, administrators, and assigns
shall and will, unless prevented by fire or in-
evitable accident, from time to time, and
at all times hereafter, at the request and pro-
per costs and charges in the law of the said
mortgagee, his heirs, executors, administrators,
or assigns at any trial or hearing in any
action or otherwise as occasion shall require,
produce all, every or any deed, instrument
or writing hereunder written for the mani-
festation, defence and support of the estate,
title and possession of the said mortgagee, his
heirs, executors, administrators and assigns,
of, in, to or out of the said lands, tenements,
hereditaments and premises hereby conveyed
or mentioned or intended so to be, and at the
like request, costs and charges shall and will
make and deliver, or cause or procure to be
made and delivered, unto the said mortgagee,
his heirs, executors, administrators and assigns,
true and attested or other copies or abstracts
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 and assigns.
COLUMB ONE.

11. And that the said mortgagor has not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or incumbered in title, estate or otherwise howsoever.

12. And that the said mortgagor or his heirs, executors, administrators 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 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 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 or assigns, the policy or policies of insurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators 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 ever quit claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators 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 or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises, or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators or assigns, and the said lands, tenements, hereditaments and premises, subject as
SHORT FORMS OF MORTGAGES.

COLUMNS ONE.

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aforesaid, shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs, or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.

14. Provided, that the said mortgagee on default of payment for may on notice enter on and lease or sell the said lands.

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, or administrators, 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 mortgagee, his heirs, executors, administrators or assigns, after giving written notice to the said mortgagor, his heirs, executors, administrators or assigns, of his or their intention in that behalf, either personally or at his or their usual or last place of residence within this Province not less than previous, without any further consent or concurrence of the said mortgagor, his heirs, executors, administrators or assigns, 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 to sell and absolutely dispose 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 thereof, his or their heirs, 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 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 mortgagee, his heirs, executors, administrators, 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 or assigns, by reason of any insurance upon the said premises or any 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 he said mortgagee, his heirs, executors, administrators 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 or assigns, do and shall pay the surplus, if any, to the said mortgagor, his heirs, executors, administrators 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 or assigns, convey and assure unto the said mortgagor, his heirs, executors, administrators 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 incumbrance whatsoever by the said mortgagee, his heirs, executors, administrators 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 mortgagee, his heirs, executors, administrators or assigns, shall have and be
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<th>COLUMN ONE</th>
<th>COLUMN TWO</th>
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<td>entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs, executors, administrators 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 provisions and trusts incident thereto had not been herein contained.</td>
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<td>15. Provided that the mortgagor may distress for arrears of interest.</td>
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<td>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, or administrators, 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 mortgagess, his heirs, executors, administrators or assigns, to distress 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 remain in arrear and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent.</td>
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<td>16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.</td>
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<td>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, then 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 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.</td>
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<td>17. Provided that until default of the principal money hereby secured shall become payable, the mortgagor shall have payment of the said sum of money hereby se-</td>
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quiet possession of the said lands.

COLUMB ONE.  COLUMN TWO.

cured 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 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 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.

10 Edw. VII. c. 55, Sched. B.