

Butterworths Property Law Handbook

BUTTERWORTHS

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PREFACE

Whilst this collection of statute law is primarily centred on the law of real property, its promulgators have also been conscious of a number of epicyclic subjects which the serious pursuer of real property law encounters, principally, the law of trusts, the law of succession, the law of family assets and conveyancing. In the result the volume comprises a selection—which it is hoped will be found to be both judicious and to the point—of statutory provisions contained in some 59 statutes and statutory instruments.

All the texts in the *Property Law Handbook* are set out in their current form, with amendments incorporated in the appropriate places, repealed provisions deleted and prospective amendments and repeals indicated. If the sole effect of a section is to amend earlier legislation, the text of that section is not reproduced (the amendments having been incorporated in the earlier legislation). If, however, the amendment is not entirely straightforward or if it is a modification rather than a textual amendment, the text of the amending section is reproduced.

The notes at the end of each section indicate the authority for any amendment of the text. The notes also indicate the date on which each section came into force, except in the case of provisions which were in force before 1 January 1970. Where relevant, the numbers of the commencement orders which apply to the section are given.

Provisions relating exclusively to Scotland or Northern Ireland have been omitted.

In all cases, the material has been extracted from the Lexis database ensuring both that the statutory provisions (where amended) appear in their latest amended form (as at December 1983) and that no errors or misprints will have crept in as a result of less than perfect typesetting and proof reading (the latter operation being mercifully eliminated by this process). So far, however (perhaps also mercifully) no computerised system has been devised to avoid the failings and shortcomings of human selection in the context of such a collection as this and for these the responsibility must be placed at the door of the writer of this preface. It is hoped, however, that the reader's recourse to the volume will more frequently be attended with satisfied surprise than with unfulfilled hope.

Ernest H Scamell
University College, London
January 1984

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FIRES PREVENTION (METROPOLIS) ACT 1774 (c 78)

An Act . . . for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster and the Liberties thereof, and other the Parishes, Precincts, and Places within the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bon, Paddington, Saint Pancras and Saint Luke at Chelsea, in the County of Middlesex . . . [1774]

NOTES

Words omitted repealed by the Statute Law Revision Act 1887.

83. Money insured on houses burnt, how to be applied

And in order to deter and hinder ill-minded persons from wilfully setting their house or houses or other buildings on fire with a view of gaining to themselves the insurance money, whereby the lives and fortunes of many families may be lost or endangered: Be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the respective governors or directors of the several insurance offices for insuring houses or other buildings against loss by fire, and they are hereby authorised and required, upon the request of any person or persons interested in or intitled unto any house or houses or other buildings which may hereafter be burnt down, demolished or damaged by fire, or upon any grounds of suspicion that the owner or owners, occupier or occupiers, or other person or persons who shall have insured such house or houses or other buildings have been guilty of fraud, or of wilfully setting their house or houses or other buildings on fire, to cause the insurance money to be laid out and expended, as far as the same will go, towards rebuilding, reinstating or repairing such house or houses or other buildings so burnt down, demolished or damaged by fire, unless the party or parties claiming such insurance money shall, within sixty days next after his, her or their claim is adjusted, give a sufficient security to the governors or directors of the insurance office where such house or houses or other buildings are insured, that the same insurance money shall be laid out and expended as aforesaid, or unless the said insurance money shall be in that time settled and disposed of to and amongst all the contending parties, to the satisfaction and approbation of such governors or directors of such insurance office respectively. [1]

86. No action to lie against a person where the fire accidentally begins

And . . . no action, suit or process whatever shall be had, maintained or prosecuted against any person in whose house, chamber, stable, barn or other building, or on whose estate any fire shall . . . accidentally begin, nor shall any recompence be made by such person for any damage suffered thereby, any law, usage or custom to the contrary notwithstanding: . . . provided that no contract or agreement made between landlord and tenant shall be hereby defeated or made void. [2]

NOTES

First words omitted repealed by the Statute Law Revision Act 1888; second words omitted repealed by the Statute Law Revision Act 1948; final words omitted repealed by the Statute Law Revision Act 1958.

PREScription ACT 1832
(c 71)

ARRANGEMENT OF SECTIONS

Section	Para
1 Claims to right of common and other profits à prendre (except tithes, etc), not to be defeated after thirty years enjoyment by merely showing the commencement of the right—After sixty years enjoyment the right to be absolute, unless shown to be had by consent or agreement	[3]
2 In claims of rights of way or other easements the periods to be twenty years and forty years	[4]
3 Right to the use of light enjoyed for twenty years, indefeasible, unless shown to have been by consent	[5]
4 The periods to be those next before the suit or action—What shall constitute an interruption	[6]
5 What claimant may allege	[7]
6 No presumption to be allowed	[8]
7 Proviso where any person capable of resisting a claim is an infant, etc	[9]
8 Time to be excluded in certain cases in computing the term of forty years appointed by this Act	[10]
9 Extent of Act	[11]

An Act for shortening the Time of Prescription in certain cases [1 August 1832]

1. Claims to right of common and other profits à prendre (except tithes, etc), not to be defeated after thirty years enjoyment by merely showing the commencement of the right—After sixty years enjoyment the right to be absolute, unless shown to be had by consent or agreement

... No claim which may be lawfully made at the common law, by custom, prescription, or grant, to any right of common or other profit or benefit to be taken and enjoyed from or upon any land of our sovereign lord the King . . . or any land being parcel of the duchy of Lancaster or the duchy of Cornwall, or of any ecclesiastical or lay person, or body corporate, except such matters and things as are herein specially provided for, and except tithes, rent, and services, shall, where such right, profit, or benefit shall have been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, be defeated or destroyed by showing only that such right, profit, or benefit was first taken or enjoyed at any time prior to such period of thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and when such right, profit, or benefit shall have been so taken and enjoyed as aforesaid for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was taken and enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing. [3]

NOTES
Words omitted repealed by the Statute Law Revision Act 1890.

2. In claims of rights of way or other easements the periods to be twenty years and forty years

... No claim which may be lawfully made at the common law, by custom, prescription, or grant, to any way or other easement, or to any watercourse, or the use of any water, to be enjoyed or derived upon, over, or from any land or water of our said lord the King . . . or being parcel of the duchy of Lancaster or of the duchy of Cornwall, or being the property of any ecclesiastical or lay person, or body corporate, when such way or other matter as herein last before

mentioned shall have been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years, shall be defeated or destroyed by showing only that such way or other matter was first enjoyed at any time prior to such period of twenty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and where such way or other matter as herein last before mentioned shall have been so enjoyed as aforesaid for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. [4]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888 and the Statute Law Revision Act 1890.

3. Right to the use of light enjoyed for twenty years, indefeasible, unless shown to have been by consent

... When the access and use of light to and for any dwelling house, workshop, or other building shall have been actually enjoyed therewith for the full period of twenty years without interruption, the right thereto shall be deemed absolute and indefeasible, any local usage or custom to the contrary notwithstanding, unless it shall appear that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing. [5]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

4. The periods to be those next before the suit or action—What shall constitute an interruption

... Each of the respective periods of years herein-before mentioned shall be deemed and taken to be the period next before some suit or action wherein the claim or matter to which such period may relate shall have been or shall be brought into question; and ... no act or other matter shall be deemed to be an interruption, within the meaning of this statute, unless the same shall have been or shall be submitted to or acquiesced in for one year after the party interrupted shall have had or shall have notice thereof, and of the person making or authorizing the same to be made. [6]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

5. What claimant may allege

... In all actions upon the case and other pleadings, wherein the party claiming may now by law allege his right generally, without averring the existence of such right from time immemorial, such general allegation shall still be deemed sufficient, and if the same shall be denied, all and every the matters in this Act mentioned and provided, which shall be applicable to the case, shall be admissible in evidence to sustain or rebut such allegation; and ... in all pleadings to actions of trespass, and in all other pleadings wherein before the passing of this Act it would have been necessary to allege the right to have existed from time immemorial, it shall be sufficient to allege the enjoyment thereof as of right by the occupiers of the tenement in respect whereof the same is claimed for and during such of the periods mentioned in this Act as may be applicable to the case, and without claiming in the name or right of the owner

of the fee, as is now usually done; and if the other party shall intend to rely on any proviso, exception, incapacity, disability, contract, agreement, or other matter herein-before mentioned, or on any cause or matter of fact or of law not inconsistent with the simple fact of enjoyment, the same shall be specially alleged and set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general traverse or denial of such allegation. [7]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

6. No presumption to be allowed

... In the several cases mentioned in and provided for by this Act, no presumption shall be allowed or made in favour or support of any claim, upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as may be applicable to the case and to the nature of the claim. [8]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

7. Proviso where any person capable of resisting a claim is an infant, etc

Provided also, that the time during which any person otherwise capable of resisting any claim to any of the matters before mentioned shall have been or shall be an infant, idiot, non compos mentis, feme covert, or tenant for life, or during which any action or suit shall have been pending, and which shall have been diligently prosecuted, until abated by the death of any party or parties thereto, shall be excluded in the computation of the periods herein-before mentioned, except only in cases where the right or claim is hereby declared to be absolute and indefeasible. [9]

8. Time to be excluded in certain cases in computing the term of forty years appointed by this Act

Provided always, . . . that when any land or water upon, over or from which any such way or other convenient watercourse or use of water shall have been or shall be enjoyed or derived hath been or shall be held under or by virtue of any term of life, or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before mentioned, during the continuance of such term, shall be excluded in the computation of the said period of forty years, in case the claim shall within three years next after the end or sooner determination of such term be resisted by any person entitled to any reversion expectant on the determination thereof. [10]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

9. Extent of Act

This Act shall not extend to Scotland . . . [11]

NOTES

Words omitted repealed by the Statute Law Revision Act 1874.

FINES AND RECOVERIES ACT 1833
(c 74)

ARRANGEMENT OF SECTIONS

Section	Para
15 Power of actual tenants in tail, after 31 December 1833, to dispose of entailed lands in fee simple or for less estate, saving the rights of certain persons	[12]
18 The power of disposition not to extend to certain tenants in tail restrained by 34 & 35 Hen 8 c 20 etc	[13]
19 Power after 31 December 1833, to enlarge base fees; saving the rights of certain persons	[14]
22 The owner of the first existing estate under a settlement, prior to an estate tail under the same settlement, to be the protector of the settlement	[15]
34 Where there is a protector, his consent shall be requisite to enable an actual tenant in tail to create a larger estate than a base fee	[16]
35 Where there is a base fee, and a protector, his consent shall be requisite to the exercise of the power of disposition	[17]
39 Base Fees, when united with the immediate reversions, enlarged, instead of being merged	[18]

An Act for the Abolition of Fines and Recoveries and for the Substitution of more simple Modes of Assurance [28 August 1833]

15. Power of actual tenants in tail, after 31 December 1833, to dispose of entailed lands in fee simple or for less estate, saving the rights of certain persons

... After the thirty-first day of December one thousand eight hundred and thirty-three every actual tenant in tail, whether in possession, remainder, contingency or otherwise, shall have full power to dispose of for an estate in fee simple absolute or for any less estate the lands entailed, as against all persons claiming the lands entailed by force of any estate tail which shall be vested in or might be claimed by, or which but for some previous act would have been vested in or might have been claimed by, the person making the disposition at the time of his making the same, and also as against all persons, including the King’s most excellent Majesty, whose estates are to take effect after the determination or in defeasance of any such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition shall be made, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made. [12]

NOTES
Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

18. The power of disposition not to extend to certain tenants in tail restrained by 34 & 35 Hen 8 c 20 etc

Provided always, . . . that the power of disposition hereinbefore contained shall not extend to tenants of estates tail who, by an Act passed in the thirty-fourth and thirty-fifth years of the reign of his Majesty King Henry the Eighth, intituled “An Act to embar feigned recovery of lands wherein the King is in reversion”, or by any other Act, are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct. [13]

NOTES
Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

19. Power after 31 December 1833, to enlarge base fees; saving the rights of certain persons

... After the thirty-first day of December one thousand eight hundred and thirty-three, in every case in which an estate tail in any lands shall have been barred and converted into a base fee, either before or on or after that day, the person who, if such estate tail had not been barred, would have been actual tenant in tail of the same lands, shall have full power to dispose of such lands as against all persons, including the King's most excellent Majesty, whose estates are to take effect after the determination or in defeasance of the base fee into which the estate tail shall have been converted, so as to enlarge the base fee into a fee simple absolute; saving always the rights of all persons in respect of estates prior to the estate tail which shall have been converted into a base fee, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made. [14]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

22. The owner of the first existing estate under a settlement, prior to an estate tail under the same settlement, to be the protector of the settlement

... If, at the time when there shall be a tenant in tail of lands under a settlement, there shall be subsisting in the same lands or any of them, under the same settlement, any estate for years determinable on the dropping of a life or lives, or any greater estate (not being an estate for years), prior to the estate tail, then the person who shall be the owner of the prior estate, or the first of such prior estates if more than one then subsisting under the same settlement, or who would have been so if no absolute disposition thereof had been made, (the first of such prior estates, if more than one, being for all the purposes of this Act deemed the prior estate), shall be the protector of the settlement so far as regards the lands in which such prior estate shall be subsisting, and shall for all the purposes of the Act be deemed the owner of such prior estate, although the same may have been charged or incumbered either by the owner thereof or by the settlor, or otherwise howsoever, and although the whole of the rents and profits be exhausted or required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and an estate by the curtesy, in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement within the meaning of this clause; and an estate by way of resulting use or trust to or for the settlor shall be deemed an estate under the same settlement within the meaning of this clause. [15]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

34. Where there is a protector, his consent shall be requisite to enable an actual tenant in tail to create a larger estate than a base fee

Provided always, ... that if at the time when any person, actual tenant in tail of lands under a settlement, but not entitled to the remainder or reversion in fee immediately expectant on the determination of his estate tail, shall be desirous of making under this Act a disposition of the lands entailed, there shall be a protector of such settlement, then and in every such case the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the

lands entailed to the full extent to which he is herein-before authorized to dispose of the same; but such actual tenant in tail may, without such consent, make a disposition under this Act of the lands entailed, which shall be good against all persons who, by force of any estate tail which shall be vested in or might be claimed by, or which but for some previous act or default would have been vested in or might have been claimed by, the person making the disposition at the time of his making the same, shall claim the lands entailed. [16]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

35. Where there is a base fee, and a protector, his consent shall be requisite to the exercise of the power of disposition

Provided always, . . . that where an estate tail shall have been converted into a base fee, in such case, so long as there shall be a protector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same had not been barred to exercise, as to the lands in respect of which there shall be such protector, the power of disposition herein-before contained. [17]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

39. Base Fees, when united with the immediate reversions, enlarged, instead of being merged

. . . If a base fee in any lands, and the remainder or reversion in fee in the same lands, shall at the time of the passing of this Act, or at any time afterwards, be united in the same person, and at any time after the passing of this Act there shall be no intermediate estate between the base fee and the remainder or reversion, then and in such case the base fee shall not merge, but shall be ipso facto enlarged into as large an estate as the tenant in tail, with the consent of the protector, if any, might have created by any disposition under this Act, if such remainder or reversion had been vested in any other person. [18]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

WILLS ACT 1837

(c 26)

ARRANGEMENT OF SECTIONS

Section	Para
1 Meaning of certain words in this Act	[19]
3 All property may be disposed of by will	[20]
7 No will of a person under age valid	[21]
9 [Signing and attestation of wills]	[22]
10 Appointments by will to be executed like other wills, and to be valid, although other required solemnities are not observed	[23]
11 Saving as to wills of soldiers and mariners.	[24]
13 Publication of will not requisite	[25]
14 Will not be void on account of incompetency of arresting witness	[26]
15 Gifts to an attesting witness, or his or her wife or husband, to be void	[27]
16 Creditor attesting a will charging estate with debts shall be admitted a witness.	[28]
17 Executor shall be admitted a witness	[29]
18 Wills to be revoked by marriage, except in certain cases	[30]
18A Effect of dissolution or annulment of marriage on wills	[31]

Section	Para
19 No will to be revoked by presumption from altered circumstances	[32]
20 No will to be revoked otherwise than as aforesaid or by another will or codicil, or by destruction thereof	[33]
21 No alteration in a will after execution except in certain cases, shall have any effect, unless executed as a will	[34]
22 No revoked will shall be revived otherwise than by re-execution or a codicil, etc	[35]
23 Subsequent conveyance or other act not to prevent operation of will	[36]
24 Wills shall be construed as to the estate comprised, to speak from the death of the testator	[37]
25 Residuary devises shall include estates comprised in lapsed and void devises	[38]
26 A general devise of the testator's lands shall include copyhold and leasehold as well as freehold lands, in the absence of a contrary intention	[39]
27 A general gift of realty or personalty shall include property over which the testator has a general power of appointment	[40]
28 A devise of real estate without any words of limitation shall pass the fee, etc	[41]
29 The words "die without issue," or "die without leaving issue," etc, shall mean a want or failure of issue in the lifetime or at the death of the person, except in certain cases	[42]
30 Devise of realty to trustees or executors shall pass the fee, etc, except in certain cases	[43]
31 Trustees under an unlimited devise, where the trust may endure beyond the life of a person beneficially entitled for life, shall take the fee, etc	[44]
32 Devises of estates tail shall not lapse where inheritable issue survives, etc	[45]
33 Gifts to children or other issue who leave issue living at the testator's death shall not lapse	[46]
34 Act not to extend to wills made before 1838, or to estates pur autre vie of persons who die before 1838	[47]

An Act for the amendment of the Laws with respect to Wills

[3 July 1837]

1. Meaning of certain words in this Act

. . . the words and expressions herein-after mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provisions or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say,) the word "will" shall extend to a testament, and to a codicil, and to an appointment by will or by writing in the nature of a will in exercise of a power, and also to a disposition by will and testament or devise of the custody and tuition of any child, . . . and to any other testamentary disposition; and the words "real estate" shall extend to manors, advowsons, messuages, lands, tithes, rents, and hereditaments, . . . whether corporeal, incorporeal, or personal, and to any undivided share thereof, and to any estate, right, or interest (other than a chattel interest) therein; and the words "personal estate" shall extend to leasehold estates and other chattels real and also to monies, shares of government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male. [19]

NOTES

First words omitted repealed by the Statute Law Revision Act 1893; other words omitted repealed by the Statute Law (Repeals) Act 1969, s 1, Schedule, Part III.

3. All property may be disposed of by will

. . . it shall be lawful for every person to devise, bequeath, or dispose of, by his will executed in manner herein-after required, all real estate and all personal estate which he shall be entitled to, either at law or in equity, at the time of his death, and which, if not so devised, bequeathed, and disposed of, would devolve

... upon his executor or administrator; and ... the power hereby given shall extend ... to all contingent, executory or other future interests in any real or personal estate, whether the testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instrument by which the same respectively were created, or under any disposition thereof by deed or will; and also to all rights of entry for conditions broken, and other rights of entry; and also to such of the same estates, interests, and rights respectively, and other real and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will. [20]

NOTES

First and third words omitted repealed by the Statute Law Revision (No 2) Act 1888; other words omitted repealed by the Statute Law (Repeals) Act 1969, s 1, Schedule, Part III.

7. No will of a person under age valid

... no will made by any person under the age of [eighteen years] shall be valid. [21]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888; amendment in square brackets made by the Family Law Reform Act 1969, s 3(1)(a).

9. [Signing and attestation of wills]

[No will shall be valid unless—

- (a) it is in writing, and signed by the testator, or by some other person in his presence and by his direction; and
- (b) it appears that the testator intended by his signature to give effect to the will; and
- (c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and
- (d) each witness either—
 - (i) attests and signs the will; or
 - (ii) acknowledges his signature, in the presence of the testator (but not necessarily in the presence of any other witness),

but no form of attestation shall be necessary.] [22]

NOTES

Commencement: 1 January 1983.

Substituted with a saving by the Administration of Justice Act 1982, ss 17, 73(6).

10. Appointments by will to be executed like other wills, and to be valid, although other required solemnities are not observed

... no appointment made by will, in exercise of any power, shall be valid, unless the same be executed in manner herein-before required; and every will executed in manner herein-before required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of such power should be executed with some additional or other form of execution or solemnity. [23]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

11. Saving as to wills of soldiers and mariners.

Provided always, . . . that any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of this Act. [24]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

13. Publication of will not requisite

. . . every will executed in manner herein-before required shall be valid without any other publication thereof. [25]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

14. Will not be void on account of incompetency of attesting witness

. . . if any person who shall attest the execution of a will shall at the time of the execution thereof or at any time afterwards be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid. [26]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

15. Gifts to an attesting witness, or his or her wife or husband, to be void

. . . if any person shall attest the execution of any will to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, or appointment, of or affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts), shall be thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution of such will, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will. [27]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.

16. Creditor attesting a will charging estate with debts shall be admitted a witness.

. . . in case by any will any real or personal estate shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor, whose debt is so charged, shall attest the execution of such will, such creditor notwithstanding such charge shall be admitted a witness to prove the execution of such will, or to prove the validity or invalidity thereof. [28]

NOTES

Words omitted repealed by the Statute Law Revision (No 2) Act 1888.