

# FRAUDS.

29 Cha. II.,  
c. 3.

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## *The Statute of Frauds.*

AN ACT for Prevention of Frauds and Perjuries.

FOR prevention of many fraudulent practices, which are commonly endeavoured to be upheld by perjury and subornation of perjury :

Parol leases and interest of freehold shall have the force of estates at will only.

1. All leases, estates, interests of freehold, or terms of years, or any uncertain interest of, in, to, or out of any messuages, manors, lands, tenements or hereditaments, made or created by livery and seisin only, or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force or effect, any consideration for making any such parol, leases, or estates, or any former law or usage to the contrary notwithstanding.

Except leases not exceeding three years, &c.

2. Except nevertheless all leases, not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord during such term shall amount to two third parts at the least of the full improved value of the thing demised.

No leases or estates of freehold shall be granted or surrendered by word.

3. No leases, estates, or interests, either of freehold or terms of years, or any uncertain interest, not being copyhold or customary interest of, in, to, or out of any messuages, manors, lands, tenements, or hereditaments, shall . . . . be assigned, granted, or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting, or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

Promises and agreements by parol.

4. . . . No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate ; or whereby to charge

the defendant upon any special promise to answer for the debt, default, or miscarriages of another person; or to charge any person upon any agreement made upon consideration of marriage; or upon any contract or sale of lands, tenements, or hereditaments, or any interest in or concerning them; or upon any agreement that is not to be performed within the space of one year from the making thereof; unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

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7. . . . All declarations or creations of trusts or confidences of any lands, tenements, or hereditaments, shall be manifested and proved by some writing, signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect.

Declarations or creations of trusts be in writing.

8. Provided always that where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law, or be transferred or extinguished by an act or operation of law, then and in every such case such trust or confidence shall be of the like force and effect as the same would have been if this Statute had not been made, anything hereinbefore contained to the contrary notwithstanding.

Trusts arising by implication of law excepted.

9. All grants or assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same, or by such last will or devise, else shall likewise be utterly void and of none effect.

Assignments of trusts to be in writing.

10. . . . It shall and may be lawful for every sheriff or other officer to whom any writ or precept is or shall be directed, at the suit of any person or persons, of, for, and upon any judgment, Statute, or recognizance hereafter to be made or had, to do, make, and deliver execution unto the party in that behalf suing, of all such lands, tenements, rectories, tithes, rents, and hereditaments, as any other person or persons be in any manner of wise seised or possessed, or hereafter shall be seised or possessed, in trust for him against whom execution is so sued, like as the sheriff or other officer might or ought to have done if the said party against whom execution hereafter shall be so sued had been seised of such lands, tenements, rectories, tithes, rents, or other hereditaments of such estate as they be seised of, in trust for him at the time of the said execution sued.

Lands, &c., shall be liable to the judgments, &c., of *cestui que trust*.

And held free from the incumbrances of the persons seised in trust.

Trusts shall be assets in the hands of heirs.

No heir shall by reason thereof become chargeable of his own estate.

And where there is no special occupant, shall go to the executors.

The day of signing any judgment shall be entered on the margent of the roll.

And such judgments as against purchasers

Which lands, tenements, rectories, tithes, rents, and other hereditaments, by force and virtue of such execution, shall accordingly be held or enjoyed, freed and discharged from all incumbrances of such person or persons as shall be so seised or possessed, in trust for the person against whom such execution shall be sued.

And if any *cestui qui* trust hereafter shall die, leaving a trust in fee-simple to descend to his heir, there and in every such case such trust shall be deemed and taken, and is hereby declared to be, assets by descent, and the heir shall be liable to and chargeable with the obligation of his ancestors for and by reason of such assets, as fully and amply as he might or ought to have been, if the estate in law had descended to him in possession in like manner as the trust descended, any law, custom, or usage to the contrary in any wise notwithstanding.

11. No heir that shall become chargeable by reason of any estate or trust made assets in his hands by this law shall, by reason of any kind of plea or confession of the action, or suffering judgment by *nient dedire*, or any other matter, be chargeable to pay the condemnation out of his own estate; but execution shall be sued of the whole estate so made assets in his hands by descent, in whose hands soever it shall come after the writ purchased, in the same manner as it is to be at and by the common law, where the heir-at-law pleading a true plea judgment is prayed against him thereupon, anything in this present Act contained to the contrary notwithstanding.

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13. And whereas it hath been found mischievous, that judgments in the King's Courts at Westminster do many times relate to the first day of the term whereof they are entered, or to the day of the return of the original or filing the bail, and bind the defendant's lands from that time, although in truth they were acknowledged or suffered and signed in the vacation time after the said term, whereby many times purchasers find themselves aggrieved:

Any Judge or officer of any of His Majesty's Courts at Westminster that shall sign any judgments shall, at the signing of the same, without fee for doing the same, set down the day of the month and year of his so doing, upon the paper, book, docket, or record which he shall sign; which day of the month and year shall be also entered upon the margent of the roll of the record where the said judgment shall be entered.

14. Such judgments, as against purchasers *bond fide* for valuable consideration of lands, tenements, or hereditaments to be charged thereby, shall, in consideration of law, be judgments

only from such time as they shall be so signed, and shall not <sup>29</sup> *Cha. II.*, relate to the first day of the term whereof they are entered, or <sup>c. 3.</sup> the day of the return of the original or filing the bail, any law, shall relate to such time usage, or course of any Court to the contrary notwithstanding. <sup>\_\_\_\_\_</sup> only.

**15.** . . . . No writ of *feri facias* or other writ of execution shall bind the property of the goods against whom such writ of execution is sued forth, but from the time that such writ shall be delivered to the sheriff, under-sheriff, or coroners to be executed: And for the better manifestation of the said time, the sheriff, under-sheriff, and coroners, their deputies and agents, shall, upon the receipt of any such writ (without fee for doing the same), indorse upon the back thereof the day of the month and year whereon he or they receive the same. <sup>Writs of execution shall bind the property of goods but from the time of their delivery to the officer.</sup>

**16.** . . . . No contract for the sale of any goods, wares, and merchandises for the price of ten pounds sterling or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized. <sup>Contracts for sales of goods for ten pounds or more.</sup>

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**22.** . . . . Notwithstanding this Act, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his movables, wages, and personal estate as he or they might have done before the making of this Act. <sup>Soldiers' and mariners' wills excepted.</sup>

**23.** Nothing in this Act shall extend to alter or change the jurisdiction or right of probate of wills concerning personalesstates, but the Prerogative Court of the Archbishop of Canterbury, and other ecclesiastical Courts, and other Courts having right to the probate of such wills, shall retain the same right and power as they had before in every respect, subject nevertheless to the rules and directions of this Act. <sup>The jurisdiction of Courts saved.</sup>

**24.** And for the explaining one Act of this present Parliament, intituled "An Act for the better Settling of Intestate Estates:" <sup>22 & 23 Cha. II., c. 10.</sup>

Neither the said Act, nor anything therein contained, shall be construed to extend to the estates of *femes covert*s that shall die intestate, but their husbands may demand and have administration of their rights, credits, and other personal estates, and recover and enjoy the same, as they might have done before the making of the said Act. <sup>Husbands not compellable to make distribution of the personal estates of their wives.</sup>