and convey the land free from the right of redemption of the mortgagor, and of all claiming through him subsequent to the mortgage, whether by express charge or by execution, or otherwise, and thus avoid the time and expense of proceedings required to foreclose or sell under the order of the Court.

The power of sale is now commonly resorted to, and although at first sight its insertion may appear prejudicial to the interests of the mortgagor, yet in truth it is not so, if it is only to be exercised on reasonable notice after default and the sale take place at public auction. The absence of such a power may be very prejudicial to the interests of both mortgagor and mortgagee, where the equity of redemption becomes incumbered by executions or otherwise, as on a suit of foreclosure or sale the incumbrancers have to be made parties, sometimes at great expense. As regards any objections on the ground of possibility of improper exercise of the power by an individual, which could not happen on sale under direction of the Court, a Court of equity will closely scrutinize the mortgagee's conduct, and, if improper, afford relief.

The word "assigns," as referable to the mortgagee, should never be omitted, for in its absence it has been said that an assignee of the mortgage could not exercise the power of sale, Davidson Conv., 3 ed., vol. 2, 621; *Bradford* v. *Belfield*, 2 Sim. 264, and it may be doubtful whether a devisee could, *Cook* v. *Crawford*, 13 Sim. 91; *Wilson* v. *Bennett*, 5 DeG. & Sm. 475; *Stevens* v. *Austen*, 7 Jur. N.S. 873; *Macdonald* v. *Walker*, 14 Beav. 556, see also *Ridout* v. *Howland*, 10 Gr. 547.

The power in the statutory form is made conditional on notice being given. It is preferable that notice should be provided for by a separate covenant by the mortgagee not to sell till after the specified notice, *Forster* v. *Hoggard*, 15 Q.B. 155. But where the statutory form is used the mortgagee cannot sell without notice. As it has been held that the statutory form cannot be modified by changing the provision for notice to one without notice, *Re Gilchrist & Island*, 11 Ont. R. 537; *Clark* v. *Harvey*, 16 Ont. R. 159. See also R.S.O. c. 112, s. 27, it is incumbent on the conveyancer to make an additional stipulation that after default for a longer period than that mentioned in the power, the mortgagee may sell without notice.

As regards the clause or covenant providing that notice be given before sale under the power, if assigns are to receive notice, ample scope should be given as to the mode of giving it, and it might be provided that the notice need not be personal, but may be left on the premises, and need not be addressed to any person by name or designation, or may be sent by post addressed to the party at the post office next his residence. Where the power required the notice to be served on the mortgagor, "his heirs, executors, or administrators;" it was held that a notice given after a mortgagor's death should have been served upon both the heir and administrator, *Bartlett* v. *Jull*, 28 Gr. 142. And where the notice is to be served on the mortgagor, his heirs, or assigns, and the mortgagor has made a second mortgage, the notice must be served upon both the mortgagor and his assign, the second mortgagee, *Hoole* v. *Smith*, 17 Ch. D. 434. This may be provided against by stipulating that the notice may be served on all the persons named, "or some or one of them," *Bartlett* v. *Jull*, *supra*.