title. The vendor's title was derived from trustees who had purchased the land in question under a power contained in a settlement as an investment, and for the occupation of one of the cestui que trust, a tenant for life. The settlement contained no express power to vary the investment but the property being no longer required by the tenant for life, the trustees, with his consent, had sold it to the vendor. Two questions were raised by the purchaser:(1) In the absence of an express power to vary investments, had the trustees any power to sell at all; (2) If they had, was the tenant for life a necessary party to the conveyance. Neville, J., answered the first question in the affirmative and the second in the negative. He held that a power to invest, where there is no special reason against it, implies a power to vary investments, and there being no special reason against it in this case, the trustees had power to sell. And though under the Settled Land Act, s. 56, the tenant for life had also power to sell, yet that did not put an end to the power of the trustees to vary the investment. He was therefore of the opinion that both the trustees and the tenant for life, had power to sell. And assuming that the consent of the tenant for life was necessary to a sale by the trustees, it was not necessary that the consent should be in writing, or that he should concur in the conveyance.

MORTGAGE—PRIORITY—MERGER—RELEASE OF PART OF SECURITY.

In *Manks* v. *Whitley* (1911) 2 Ch. 478 the plaintiff claimed priority as mortgagee in the following circumstances. Ogden being owner of the land in question in 1900, mortgaged it to Ackroyd for £300. In 1901 he mortgaged it to plaintiff for £120. In 1905 he mortgaged it again to Ackroyd for £172. In 1907 Ogden agreed to sell the property to Whitley; Whitley was informed that the only incumbrances were the two mortgages to Ackroyd. In order to pay off the first mortgage Whitley borrowed £300 from Farrar and Whitley paid off the second mortgage. The transaction was carried out by Ackroyd reconveying to Ogden. Ogden then conveyed to Whitley and Whitley mortgaged to Farrar to secure £300 advanced by him to pay off Ackroyd's first mortgage. In these circumstances the plaintiff contended that the first mortgage not having been kept in foot, but the mortgagee having reconveyed to Ogden and he having conveyed to Whitley free from the Ackroyd first mortgage, it was extinguished, and the second mortgage of the plaintiff acquired priority; but Parker, J., held that the transaction having taken place without notice of the plaintiff's mortgage, it could not be supposed that there was any intention to merge or extinguish the mortgage, and that Whitley and Farrar were entitled to be subrogated to the rights of the first mortgagee. Another point in this case was this: the plaintiff besides the mortgage above