

assignment of the lease which carried the fixtures, and that the result might possibly have been different if the mortgage had been by way of sub-lease. The plaintiff relied on the case of *Re Yates*, 38 Ch. D. 112, where it was laid down that a mortgagee of premises on which there are trade fixtures, has no right to sever them and sell them separately from the property to which they are affixed, and it was argued that if he does sever them they immediately revert to the mortgagor. But Eady, M.R., as to that said that the mortgagee had the right to the fixtures, and if he improperly severed them to the prejudice of the mortgagor he might be answerable for the damage so occasioned, but that was all.

MARRIAGE—DECEASED WIFE'S NIECE—VALIDITY—DECEASED
WIFE'S SISTER MARRIAGE ACT 1907 (7 EDW. VII. c. 47)—
(R.S.C., c. 105, s. 2).

In re Phillips, Charter v. Ferguson (1919) 1 Ch. 128. This was a summary application by originating summons on behalf of the administrator of an estate, to have it determined whether the marriage of a man to his deceased wife's niece is valid. It was admitted that the marriage with an aunt or uncle's wife was expressly prohibited, and that the Ecclesiastical Courts held that marriage with a wife's niece was prohibited by parity of reason; but it was claimed that as the statute of 1907 had removed the prohibition of marriage with a deceased wife's sister, it had impliedly removed the prohibition of marriage with a deceased wife's niece, who was one degree further off. Astbury, J., who heard the application, refused to give effect to this argument, and held that the marriage was within the prohibited degrees and therefore under the Marriage Act, 1835 (5-6 W. IV. c. 54) absolutely null and void. This is another instance of the necessity for a uniform marriage law for the whole Empire. Here we have a marriage declared unlawful in England, and a Canadian statute, R.S.C., c. 105, declaring that in Canada such a marriage is not invalid. And it also manifests the unsatisfactory character of the tinkering method of legislation. A marriage with a deceased wife's sister is made legal, and a marriage with a deceased husband's brother remains illegal, although by parity of reason both stand on the same footing. Then we have a marriage with a deceased wife's niece, though invalid in England, declared to be valid in Canada, but marriage with a deceased husband's nephew still remains unlawful, though both, by parity of reason, are on the same footing. How far the Parliament of Canada has authority to alter the Imperial legislation on this subject, even as far as Canada is concerned, in view of the Colonial Laws Validity Act, remains still to be decided.