

TABLE OF CONTENTS

CHAPTER I.: INTRODUCTION.

ORIGIN, RECOGNITION AND GROWTH OF POWER.

	SECTION.
Early history	1
Period of doubtful validity	1
Croft v. Powell	1
Gradual introduction	2
King v. Edington	2
Validity established	3
Corder v. Morgan	3
Concurrence of mortgagor unnecessary	4
Lord Eldon's doubts	5
Specific performance of agreements for mortgages with power	6
Sir J. Wickson's view	6
Lord Selborne's decision	6
Power formerly not implied	7
Mortgages settled by court	7
Meaning of power to mortgage	8
Includes the giving of mortgages with power of sale	8
Ontario Statutes implying power	9
Imp. Conveyancing Act 1881, s. 19	10

CHAPTER II.

NECESSITY FOR POWER: "TRUSTEESHIP" OF MORTGAGEE.

Practical value of power	11
Equitable necessity for power	12
"Trusteeship" of mortgagee	13
Attempted definition of his trusteeship	14
Some distinctions between mortgagee and trustee	15
"equal rights to both parties to enforce power	15
Not an express trustee	15
Trustee restrained where mortgagee not	15
Conflict of interest with duty	15
Wilful default	16