

sum of money than that appearing on its face, except in cases of mortgages of indemnity. The object of this Act is explained in *Cole v. Albers*, 1 Gill, 412, and *Young's estate*, 3 Md. Ch. Dec. 161. It is well settled that a mortgage to secure future advances is good under the Act, where the amount to be advanced is expressed in the deed. In *Wilson v. Russell*, 13 Md. 394, such a mortgage was preferred to a junior incumbrance, though the advances were made subsequently to the date and with notice of the latter.<sup>21</sup>

In *Burrel's case*, 6 Rep. 72, it was determined that it was not essential that the conveyance impeached as fraudulent should be made by the same **420** person from whom \*the purchaser derived his title, it being resolved that if a father make a lease by fraud and covin, in order to defraud others to whom he may sell it, and dies before any sale, and the son, knowing or not knowing of the lease, sell the land upon good consideration, the vendee shall avoid the lease by force of the Statute. But in *Doe v. Rusham*, 17 Q. B. 723, it was held, that the Statute did not apply to the case of a purchase for valuable consideration from the heir or devisee of one who had made a voluntary conveyance of the same property in his life-time.<sup>22</sup> And it may therefore be considered as the law in England now, that the alienee of the heir cannot avoid a mere voluntary lease made by the ancestor. Indeed, in *Richards v. Lewis*, 11 C. B. 1035, it was observed that *Burrel's case* was one of fraud in fact, which was approved in *Doe v. Rusham*. In *Beavan v. Lord Oxford*, 6 De G. M. & G. 507, it was held that judgment creditors are not purchasers within this Statute; but equitable mortgagees are in equity, *Lister v. Turner*, 15 L. J. Chan. 336, though not at law, *Kerrison v. Dorrien*, 9 Bing. 76.

As to the 6th section see *Sugden on Powers*, c. 8.

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<sup>21</sup> But under the present act the mortgage is a lien only from the time the advance is actually made. See note 20 *supra* and especially *High Grade Brick Co. v. Amos*, 95 Md. 598.

<sup>22</sup> *Godfrey v. Poole*, 13 App. Cas. 505.

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## CAP. V.

### An Act for Furtherance of Justice, in Case of Demurrer and Pleadings.

Forasmuch as excessive Charges and Expenses, and great Delay and Hindrance of Justice hath grown in Actions and Suits between the Subjects of this Realm, by Reason that upon some small Mistaking, or Want of Form in Pleading, Judgments are often reversed by Writs of Error, and oftentimes upon Demurrers in Law, given otherwise than the Matter in Law and