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DUBLIN: PRINTED BY JOHN FALCONER, 53 UPPER SACKVILLE-STREET.

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## PREFACE TO THE THIRD EDITION.

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IN the ten years which have elapsed since the publication of the second edition of this work many alterations have been made in the law of land tenure in Ireland, both by legislation and by judicial decision. Seven new Acts of Parliament have been passed dealing with the subject, the most important of which—viz., the Land Law (Ireland) Act, 1896—I had the honour of editing, in conjunction with the present MR. JUSTICE BARTON, as a separate volume, in the year 1897. Two Statutes dealing exclusively with Land Purchase, since passed, and several Congested Districts Board Acts, as well as the Act of 1896, are included in the present volume with the earlier Acts, thus making a complete code of the Irish Land Laws down to the present date.

It is not alone by legislation that the law has been altered. The decisions of the Courts, though professing not to do so, are found insensibly to modify the principles of law in all its branches, and the law of landlord and tenant in Ireland is no exception to this rule. Reports of many more land cases now appear than was formerly the case. The valuable series of reports appearing in the *New Irish Jurist* and MR. GREER'S *Monthly Law Reports*, in addition to the *Irish Law Times* and the authorised Reports, furnish a continual supply.

I have followed the same rule in the present edition as on former occasions in noting these cases—namely, to refer to *all cases* decided by the Superior Courts and Land Commission, but only to those of the County Courts and Sub-Commissions which decide new points, upon which there is no authority in the judgments of Courts of higher position. The number of cases is now so great that

the practitioner is apt to be confused rather than assisted by a multitude of references; it is to the leading cases decided by Courts of the highest authority that he needs to be referred.

Altogether it will be found that about eight hundred cases, decided since the publication of the last edition, are referred to throughout the volume, making the total number of cases cited considerably over two thousand. All cases reported before October 1st, 1902, are referred to, either in the text or in the Addenda.

Changes have taken place, not only in the law, but in the practice and procedure of the Courts. The much-discussed "Fortieth Section" has led to the publication of an elaborate series of Rules in the Land Judge's Court. The ejectment Sections of the Act of 1896 rendered new Rules necessary, both in the High Court and County Courts, and the Land Commissioners have also found it necessary to issue completely new sets of Rules and Forms, both in their Rent-fixing and Land Purchase Departments. A new edition of the book, it will therefore be seen, would, in any event, have been required, even if the former editions had not been for some years out of print, and all the new Rules and Forms are, of course, included in the present volume.

In order to reduce to some extent the bulk of the volume, now becoming rather unwieldy for convenient use in Court, I have in the present edition omitted all Sections of the Acts which have been totally repealed. Though it is sometimes convenient to have these for reference, it is not often necessary to refer to them, and the disadvantages of printing them rather outweigh the advantages, as most of them are completely obsolete. Where a Section has only been partially repealed, on the other hand, the repealed portion will, in all cases, be found printed in italics, as it is frequently necessary, in order to rightly construe the unrepealed portion, to read the whole as originally enacted.

The only other alteration in the arrangement of the work which calls for reference is the addition of a complete Table of Forms to the other Tables at the beginning of the volume. This has been carefully arranged, according to the Court and Department in which the various Forms are authorised for use, so as to enable any particular one to be found with the least possible trouble when required.

In preparing the present edition (which I found to be a much more serious task than I thought it would be when I commenced it), I have especially to acknowledge the assistance I received from Mr. MAXWELL in the arrangement and annotation of the Rules, correction of proofs, and preparation of the Index. The latter will be found to be much larger and, I think, more accurate and complete than it was in former editions.

RICHARD R. CHERRY.

92 ST. STEPHEN'S-GREEN, DUBLIN,

*October, 1902.*

**Gokhale Institute of Politics  
and Economics, PUNE 4.**

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COMPARATIVE TABLE OF BRITISH AND IRISH CURRENCY.\*

Irish			British			Irish			British		
£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
0	0	1	0	0	1	1	0	0	0	18	5½
0	0	2	0	0	1½	2	0	0	1	16	11
0	0	3	0	0	2¼	3	0	0	2	15	4½
0	0	4	0	0	3¼	4	0	0	3	13	10½
0	0	5	0	0	4¼	5	0	0	4	12	3½
0	0	6	0	0	5¼	6	0	0	5	10	9½
0	0	7	0	0	6¼	7	0	0	6	9	2½
0	0	8	0	0	7¼	8	0	0	7	7	8½
0	0	9	0	0	8¼	9	0	0	8	6	1½
0	0	10	0	0	9¼	10	0	0	9	4	7½
0	0	11	0	0	10¼	11	0	0	10	3	1
0	1	0	0	0	11	12	0	0	11	1	6½
0	2	0	0	1	10½	13	0	0	12	0	0
0	3	0	0	2	9½	14	0	0	12	18	5½
0	4	0	0	3	8½	15	0	0	13	16	11
0	5	0	0	4	7½	16	0	0	14	15	4½
0	6	0	0	5	6½	17	0	0	15	13	10½
0	7	0	0	6	5½	18	0	0	16	12	3½
0	8	0	0	7	4½	19	0	0	17	10	9½
0	9	0	0	8	3½	20	0	0	18	9	2½
0	10	0	0	9	2½	30	0	0	27	13	10½
0	11	0	0	10	1½	40	0	0	36	18	5½
0	12	0	0	11	1	50	0	0	46	3	1
0	13	0	0	12	0	100	0	0	92	6	1½
0	14	0	0	12	11	200	0	0	184	12	3½
0	15	0	0	13	10½	300	0	0	276	18	5½
0	16	0	0	14	9½	400	0	0	369	4	7½
0	17	0	0	15	8½	500	0	0	461	10	9½
0	18	0	0	16	7½	1,000	0	0	923	1	6½
0	19	0	0	17	6½						

\* Rents reserved in Irish leases made prior to the 5th January, 1826, are generally construed as meaning Irish currency, unless there are some circumstances to show that the parties contracted in British currency. See judgment of WOLFE, C.B., *Neville v. Ponsonby*, 1 I. L. R., at p. 217. And this is so, even though the amount is specified as "current and lawful money of Great Britain:" *Ex parte Keatinge*, I. R. 2 Eq. 26.

By the 6 Geo. IV., c. 79, the currency of Ireland was assimilated to that of Great Britain, and it was provided that as from the 5th January, 1826, when the Act came into force, all money transactions were to be in British currency (Sec. 1), and that contracts and debts in Irish currency made prior to that date were to be carried into effect and satisfied by payment in British currency of 12-13ths of the nominal amount according to Irish currency (Sec. 2).

## COMPARATIVE TABLE OF STATUTE AND IRISH PLANTATION LAND MEASURE.\*

STATUTE MEASURE REDUCED TO IRISH 1 Acre Statute = 617347 Irish				IRISH MEASURE REDUCED TO STATUTE 1 Acre Irish = 1.619835 Statute							
Statute			Irish			Irish			Statute		
A.	R.	P.	A.	R.	P.	A.	R.	P.	A.	R.	P.
0	0	1	0	0	6	0	0	1	0	0	1.6
0	0	2	0	0	1.2	0	0	2	0	0	3.2
0	0	3	0	0	1.9	0	0	3	0	0	4.9
0	0	4	0	0	2.5	0	0	4	0	0	6.5
0	0	5	0	0	3.1	0	0	5	0	0	8.1
0	0	6	0	0	3.7	0	0	6	0	0	9.7
0	0	7	0	0	4.3	0	0	7	0	0	11.3
0	0	8	0	0	4.9	0	0	8	0	0	12.9
0	0	9	0	0	5.6	0	0	9	0	0	14.6
0	0	10	0	0	6.2	0	0	10	0	0	16.2
0	0	20	0	0	12.3	0	0	20	0	0	32.4
0	0	30	0	0	18.5	0	0	30	0	1	8.6
0	1	0	0	0	24.7	0	1	0	0	1	24.8
0	2	0	0	1	9.4	0	2	0	0	3	9.6
0	3	0	0	1	34.1	0	3	0	1	0	34.4
1	0	0	0	2	18.8	1	0	0	1	2	19.2
2	0	0	1	0	37.6	2	0	0	3	0	38.3
3	0	0	1	3	16.3	3	0	0	4	3	17.5
4	0	0	2	1	35.1	4	0	0	6	1	36.7
5	0	0	3	0	13.9	5	0	0	8	0	15.9
6	0	0	3	2	32.7	6	0	0	9	2	35
7	0	0	4	1	11.4	7	0	0	11	1	14.2
8	0	0	4	3	30.2	8	0	0	12	3	33.4
9	0	0	5	2	8.9	9	0	0	14	2	12.6
10	0	0	6	0	27.8	10	0	0	16	0	31.7
20	0	0	12	1	15.5	20	0	0	32	1	23.5
30	0	0	18	2	3.3	30	0	0	48	2	15.2
40	0	0	24	2	31	40	0	0	64	3	6.9
50	0	0	30	3	18.8	50	0	0	80	3	38.7
60	0	0	37	0	6.5	60	0	0	97	0	30.4
70	0	0	43	0	34.3	70	0	0	113	1	22.1
80	0	0	49	1	22	80	0	0	129	2	13.9
90	0	0	55	2	9.8	90	0	0	145	3	5.6
100	0	0	61	2	37.6	100	0	0	161	3	37.4

\* By 5 Geo. IV., c. 74, Sec 2, it is provided that the acre of land shall contain 4,840 square yards. This is the "statute acre," and if the word "acre" is used in any document, after 1st May, 1825, it is interpreted as meaning the statute acre. Extrinsic evidence is not admissible to show that it was intended to mean the Irish plantation acre: *O'Donnell v. O'Donnell*, 13 L. R. Ir. 226.



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## ADDENDA.

*N.B.—Readers are requested to cut out the notes of cases given below and to insert the slips in their proper places in the book. By doing so, the references to reported cases will be made complete to the end of September, 1902. For convenience of removal the notes are printed on one side of the page only.*

- Page 8, line 5—After "*Hurly v. Hanrahan*, I. R. 1 C. L. 700," add, "See also *Nicholson v. Smyth*, 2 N. I. J. R. 78 (K. B. D.), where it was held that a tenancy was not created by payment of rent after the expiration of a lease, the rent having been received pending an appeal in the Land Commission Court and 'without prejudice to the appeal.'"
- Page 12, line 12—Add, "In *Butterly v. M'Kechnie*, 2 N. I. J. R. 222, it was held by the K. B. D. that, where one of two joint tenants entered into an agreement to grant a lease, and the other subsequently confirmed the letting by endorsement in the fold of the agreement, the subsequent confirmation dispensed with the necessity of proving a written authority to the first joint tenant to act as agent for the other, so as to satisfy the provisions of this section."
- Page 14, four lines from bottom—After "*In re O'Connor & Small's Contract*, 33 I. L. T. R. 43," add, "This case has, however, been overruled by the Court of Appeal in *Duckett v. Keene* (36 I. L. T. R. 111, 2 N. I. J. R. 226), where it was held, upon the construction of similar words in a lease, that the terms of lives and years were concurrent and not reversionary."
- Page 30, line 7—After "*Billing v. Welch*, I. R. 6 C. L. 88," add, "This case has now been overruled by the Court of Appeal in *M'Naul's Estate* [1902] 1 I. R. 114, 36 I. L. T. R. 45, 4 Greer 150, where the whole question as to the effect of covenants against alienation in fee-farm grants under the Renewable Leasehold Conversion Act was considered; and it was decided that a limited covenant restricting alienation, by making additional rent payable thereon, copied from the renewable lease, was rightly retained in the fee-farm grant made in pursuance of the Act, and that regard should be had to it in fixing the redemption price of the fee-farm rent, on a sale to an occupying tenant under the Land Purchase Acts."
- Page 51, after line 2—Add, "In *Buck v. Sullivan* (2 N. I. J. R. 164, 4 Greer 245) it was held that this section was retrospective, and applied to leases made before 1861 so far as regards rent which accrued due after the passing of the Act."
- Page 51, 13 lines from bottom—After "*Grogan v. Regan*, 35 I. L. T. R. 73, 1 N. I. J. R. 158," add, "Now also reported in the authorised reports [1902], 2 I. R. 196."
- Page 79, line 6—After "*Dennis v. Sweeny*, 34 I. L. T. R. 200," add, "See also to the same effect *Dunally v. Ryan*, 2 N. I. J. R. 163, 4 Greer 230. (BARTON, J.)"
- Page 81, line 5—Add, "Income Tax can, however, only be deducted by a tenant in respect of the rent payable to the landlord for the time being, not from rent which subsequently accrues due: 5 & 6 Vic., c. 35, s. 60 (9); 16 & 17 Vic., c. 34, ss. 5 & 40. *Bloomfield Land and Building Co. v. Lytle*, 2 N. I. J. R. 243. (WRIGHT, J.)"

- Page 92, after Sec. 50—Add, “Where a tenancy determines by disclaimer on bankruptcy this Section provides for payment to the landlord of an apportioned part of the rent from the last gale day to the date of adjudication. The amount payable is a debt recoverable, and, therefore, provable in the bankruptcy: *In re Leeks a bankrupt* [1902], 2 I. R. 339, 36 I. L. T. R. 74, 2 N. I. J. R. 113.”
- Page 99, line 6—After “*Wren v. Stokes*, 1 N. I. J. R. 137,” add, “Now also reported in the authorised reports [1902], 1 I. R. 167.”
- Page 130, 8 lines from bottom—Add, “See also, *Hussey v. Domville* (No. 2), 2 N. I. J. R. 238.”
- Page 131, line 10—Add, “Where premises are held under a special agreement enabling the tenancy to be determined by notice to quit, if the rent is unpaid for a certain time, the writ in ejectment founded on such a notice cannot be specially endorsed, nor can the plaintiff obtain final judgment thereon under Order XIV., rule 1, of the Rules of the Supreme Court: *Gleeson v. Keown*, 32 I. L. T. R. 150 (C. A.); *Conran v. M'Kittrick*, 2 N. I. J. R. 3 (K. B. D.)”
- Page 144, line 11—Add, “*Rex (Ryan) v. Justices of Co. Limerick*, 2 N. I. J. R. 2 (K. B. D.)”
- Page 163, end of note (a)—Add, “As to evidence of custom in leasehold cases, and the effect of sub-division and sub-letting upon the right of a tenant holding under the custom, see also *Smyth v. Nicholson*, 36 I. L. T. R. 159, 4 Greer 270 (C. C.)”
- Page 235, 9 lines from bottom—Add, “A sale will not be set aside merely because two holdings are included in one notice of intention to sell, where the landlord has no intention of exercising his right of pre-emption (*Connolly v. Stanhope*, 2 N. I. J. R. 205 [L. C.]), or where he has had an opportunity of purchasing and has omitted to avail himself of his rights under the Act (*Nugent v. Brennan*, 4 Greer 90 [L. C.])”
- Page 245, line 10—After “*Coyle v. M'Fadden*, 1 N. I. J. R. 142,” add, “PALLES, C.B., has refused to follow this case, in so far as it decides that next-of-kin remaining in possession of a farm on the death of an intestate are joint tenants. He has decided that they are tenants in common in equity, until lapse of time turns their estate into a legal one: *Martin v. Kearney*, 2 N. I. J. R. 195. KENNY, J., takes the same view: *Mortshed v. Mortshed*, 36 I. L. T. R. 142.”
- Page 258, line 3—Add, “The purpose for which a landlord may be allowed to resume possession under this Section must be of a definite and permanent character. The Court refused to allow resumption for the purpose of an experiment in cattle breeding for the benefit of the estate and district: *Foy v. Montgomery*, 36 I. L. T. R. 123. An order to resume possession of portion of a holding which comprised the ruins of an ancient abbey was, however, made: *Filgate v. Balfour*, 4 Greer 143.”
- Page 267, 9 lines from bottom—After “*Gosford v. Alexander*, 35 I. L. T. R., at p. 107,” add, “This case is now also reported in the authorised reports [1902], 1 I. R. 139.”
- Page 270, end of note (e)—Add, “See also as to English-managed estates: *McClintock v. Currell*, 4 Greer 286 (L. C.)”
- Page 278, line 10—Add, “Where, on an application to fix a fair rent, it was proved that a holding had been deteriorated by the tenant's neglect, the Court adjourned the case for a year, to enable the tenant to restore the land to its proper condition: *Bunting v. Brown*, 4 Greer 335 (L. C.)”

- Page 307, end of note (h)—Add, “The order must be one which would enable the landlord to take possession of the entire holding. Where portion of the holding was sublet with the landlord’s consent an application to resume was refused by TUCKER, A.L.C. : *Carden v. Cullinan*, 4 Greer 267 (S.C.)”
- Page 400, line 21—After “*Pilson v. Spratt*, 25 L. R. I. 5,” add, “*Hickey v. Ronayne*, 35 I. L. T. R. 208.”
- Page 403, line 24—Add, “The 5th Section of the Land Act, 1887 (now repealed), provided as follows:—‘In case of an application to fix a judicial rent made before the gale day next following the passing of this Act, if the judicial rent is fixed at a lower rent than the rent previously payable, the tenant may deduct from the amount of the judicial rent payable by him such sum as he may have paid over and above the amount of the judicial rent in respect of the half-year expiring on the gale day aforesaid.’ It has been held by BAILEY, A.L.C., that this provision had not the effect of making the statutory term run from the gale day *preceding* the passing of the Act in cases where an originating notice was served within the time limited : *Savage v. Henry*, 4 Greer. 316. The statutory term runs, in case of all applications made after the passing of the Act of 1887, from the gale day next succeeding the service of the originating notice : *McCann v. O’Neill*, 36 I. L. T. R. 95, 135, 2 N. I. J. R. 192, 262 (C. A.)”
- Page 415, line 20—Add, “*Donnellan v. Mahon*, 2 N. I. J. R. 264, 4 Greer 223 (L. C.)”
- Page 422, 9 lines from bottom—Add, “In *Fitzgerald’s Est.* [1902], 1 I. R. 444, MEREDITH, J., stated that he would adhere to the rule laid down in *Earl of Portarlington’s Est.* (33 I. L. T. R. 64), under which the redemption price of inappropriate tithe rentcharge is, in the absence of special circumstances, fixed at 20 years’ purchase, even when the rentcharge has been reduced under the Tithe Rentcharge Act of 1900.”
- Page 513, line 26—Add, “A question of some importance as to allowances for improvements in fixing fair rents for a second statutory term was raised before a sub-Commission in *M’Dermott v. Gormanston*, 4 Greer 311. (Judgment delivered 22 July, 1902.) It appeared that the tenant, on the fixing of the first judicial rent had not been allowed any deduction in respect of some improvements made by him owing to the fact that the 4th Section of the L. & T. Act, 1870, debarred him from claiming compensation therefor. It was contended on behalf of the landlord that this decision was an estoppel, and that in spite of the change in the law made by Sec. 1 (7) of the Act of 1896, no allowance could be made for them in any subsequent fixing of the rent. BAILEY, A.L.C., however, overruled this contention and decided that allowances for improvements on fixing rents for a second statutory term should be governed by the present state of the law, as altered by this Section.”
- Page 524, line 13—Add (in list of holdings held to be non-agricultural), “A corn-mill, flax-mill, and 15 Irish acres : *Woods v. Heron* 4 Greer 306 (L. C.)”
- Page 530, line 4—Add, “*Donelan v. Mahon* (No. 2), 2 N. I. J. R. 265.”
- Page 534, line 29—Add, “The onus of proving that a holding has been let to be used for the purpose of pasture is on the landlord : *Fawcett v. Morley*, 4 Greer 314 (L. C.)”
- Page 539, 2 lines from bottom—Add, “*Trustees of Convoey Reformed Presbyterian Church v. Boyton*, 2 N. I. J. R. 263, 36 I. L. T. R. 118 : 4 Greer 234.”

- Page 540, line 17—Add, "In *Johnston v. Garvagh*, 4 Greer 172, the Land Commission ordered, under the Sub-section, the segregation of a hotel in a village from eleven acres of land outside it."
- Page 541, line 13—Add, "Where a tenant died and her two sons went into occupation of separate portions of her holding with the landlord's knowledge and worked each part separately, though the receipts were given in the name of the representatives of the original tenant, it was held by the Land Commission that the two sons were tenants in common within the meaning of the Land Act, 1896, Sec. 5 (3), and that the widow of one of them was entitled to have a fair rent fixed as regards the part separately occupied by her: *Curran v. Musgrave*, 2 N. I. J. R. 240: 4 Greer 291."
- Page 541, line 18—Add, "*Stanley v. Stubber*, 4 Greer 240."
- Page 545, lines 13 and 23—After *Cowell v. Buchanan*, add, "Decision of C. A. now also reported, 36 I. L. T. R. 166."
- Page 545, line 30—At end of note (b) add, "A good deal of difficulty has arisen in the interpretation of the words 'not being the dwelling in which the tenant for the time being resides,' in Land Act, 1896, Sec. 7 (1) a.; for obviously a house cannot be sublet, in which the tenant for the time being resides. The view adopted by the Land Commission is that where the principal dwelling-house on the holding—the dwelling-house in which the tenant would presumably live were he to reside on the holding—is sublet, the tenant is excluded from the Section; but that where there is a second dwelling-house on the holding, or an outhouse converted into a dwelling-house, this may be sublet without depriving the tenant of his rights under the Land Acts." See *Cairnes v. Dunville*, 4 Greer 188 (S. C.).
- Page 546, after note (f)—Add, "In *Nicholson v. Smyth*, (2 N. I. J. R. 78) it appeared that the Land Commission, in exercise of the jurisdiction conferred upon them by Land Act, 1896, Sec. 7 (1) b (ii), had decided that it was not reasonable to entertain a lessee's application to have a fair rent fixed, though it did not clearly appear that more than one-eighth of the holding was sublet. The K. B. D. subsequently held under these circumstances, in an ejectment brought at the expiration of the lease, that the lessee could not rely upon a tenancy having been created by virtue of the 21st Section of the Land Act, 1881, or by the receipt of rent after the expiration of the lease, pending the Land Commission proceedings, the rent having been expressly received 'without prejudice to the appeal pending in the Land Commission Court.'"
- Page 559, end of note (b)—Add, "But see, *contra*, *Jardine v. Dickenson*, 4 Greer 320 (L. C.)."
- Page 571, line 24—After note (g.), add "In fixing the redemption price of a superior interest, the test to apply is the market value of the rentcharge or annuity: 25 years' purchase of a well secured rentcharge is usually allowed; *Wakefield's Estate*, 2 N. I. J. R. 244 (MEREDITH, J.). The value of exceptions and reservations, such as mines, minerals, and timber must also be taken into account, if these are redeemed. Grantees under fee-farm grants are, however, usually entitled, under 5 Geo. III., cap. 17 (see App., *post*, p. 925), to all timber planted after the date of the original renewable lease, by them or their predecessors in title, even though unregistered under Sec. 3 of the same Act. The law as to this subject is fully discussed by MEREDITH, J., in *Moore's Estate*, 36 I. L. T. R. 14."
- Page 598, 6 lines from bottom—Add, "See also *Trustees of Convoy Reformed Presbyterian Church v. Boyton*, 36 I. L. T. R. 118: 4 Greer 234 (L. C.)."



## PART III.

7 Wm. III.,  
c 8

## APPENDIX OF STATUTES.

## 7 WM. III., CHAP. 8 (IR.).\*

AN ACT FOR REDRESS OF INCONVENIENCES FOR WANT OF PROOF OF THE DECEASES OF PERSONS BEYOND THE SEAS, OR ABSENTING THEMSELVES, UPON WHOSE LIVES ESTATES DO DEPEND.

WHEREAS divers lords of manors and others have used to grant estates by lease for one or more life or lives, or else for years determinable upon one or more life or lives; and it hath often happened, that such person or persons, for whose life or lives such estates have been granted, have gone beyond the seas and absented themselves for many years, that the lessors and reversioners cannot find out whether such person or persons be alive or dead, by reason whereof such lessors or reversioners have been held out of possession of their tenements for many years after all the lives upon which such estates depend are dead, in regard that the lessors and reversioners, when they have brought actions for the recovery of their tenements, have been put upon it to prove the death of their tenants, when it is almost impossible for them to discover the same; for remedy of which mischief so frequently happening to such lessors or reversioners, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and the Commons in the present Parliament assembled, and by the authority of the same. That if such person or persons, for whose life or lives such estates have been or shall be granted as aforesaid, shall remain beyond the seas, or elsewhere absent themselves in this realm, by the space of seven years together, and no sufficient and evident proof be made of the lives of such person or persons respectively, in any action commenced for the recovery of such tenements by the lessors or reversioners, their heirs or assigns; the judges, before whom such action shall be brought, shall direct the jury to give their verdict, as if the person so remaining beyond the seas, or otherwise absenting himself, were dead.

Persons absent seven years, deemed dead, if no proof given to the contrary.

2. (*Jurors upon such trial, the greatest part of whose estate held by lease for lives, may be challenged.*)

3. (*If said persons proved to have been living, lessee may re-enter and recover damages.*)

## 9 ANNE, CHAP. 8 (IR.).†

9 Anne, c.

AN ACT FOR THE BETTER SECURING OF RENTS, AND TO PREVENT FRAUDS COMMITTED BY TENANTS.

FOR the more easie and effectual recovery of rents reserved on leases for life or lives, term of years, at will or otherwise; be it

\*For cases decided on the construction of this Act, see notes to L. & T. Act, 1860, sec. 72, *ante*, pp. 129-130.

†The cases decided under this Act are collected in notes to L. & T. Act, 1860, sec. 51, *ante*, pp. 98-99.

## 9 Anne, c. 8.

No goods to be taken in execution till landlord's rent, not exceeding one year, paid

enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by authority of the same. That from and after the twenty-ninth day of September in the year of our Lord God one thousand seven hundred and ten no goods or chattels whatsoever lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall be liable to be taken by virtue of any execution or foreign attachment, *justicies* or *distringas*, on any pretence whatsoever, unless the party, at whose suit the said execution or foreign attachment, *justicies* or *distringas*, issued out, before the removal of such goods from off the said premises, by virtue of such foreign attachment, execution, or extent *justicies* or *distringas*, pays to the landlord of the said premises, or his bailiff, all such sum and sums of money as are or shall be due for rent for the said premises, at the time of the taking such goods or chattels by virtue of such foreign attachment, execution, or extent *justicies* or *distringas*, provided the said arrears of rent do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party, at whose suit such execution or foreign attachment, *justicies* or *distringas* is sued out paying the said landlord or his bailiff one year's rent, may proceed to execute his judgment or foreign attachment, *justicies* or *distringas* as he might have done before the making of this Act: and the sheriff or other officer is hereby empowered and required to levy and pay to the plaintiffs the monies so paid for rent.

Landlord or agent, to make affidavit of the arrear, if required.

2. Provided always, that such landlord, or his agent, do make and produce an affidavit in writing (if thereto required by the plaintiff in such action or execution, or his agent) that such arrear of rent is really and *bona fide* due to such landlord or lessor; which oath the sheriff or sub-sheriff, or any justice of peace, or other magistrate, are hereby empowered to administer.

After expiration of lease, distress may be for arrears.

7. Whereas also lessees for life or lives, or for years, or at will frequently hold over the said lands and tenements demised after the determination of such leases; and whereas after the determination of such leases, or any other leases, no distress can by law be made for any arrears of rent that grew due on such respective leases before the determination thereof: be it hereby further enacted, that from and after the twenty-ninth day of September one thousand seven hundred and ten, it shall and may be lawful for any person or persons having any rent in arrear, or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears after the determination of the said respective leases in the same manner as they might have done if such lease or leases had not been ended or determined; provided that such distress be made within the space of six calendar months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant, or those claiming under him, from whom such arrears became due.

If made in six months, and during landlord's title and tenant's possession.

## 15 GEO. II., CHAP. 8 (IR.).\*

15 Geo. II.,  
c. 8.AN ACT FOR THE MORE EFFECTUAL SECURING THE PAYMENT OF RENTS,  
AND PREVENTING FRAUDS BY TENANTS.

WHEREAS the several laws heretofore made for the better securing <sup>11 G 2,</sup> of rents, and to prevent frauds committed by tenants, have not <sup>c 19, Eng</sup> proved sufficient to obtain the good ends and purposes designed thereby; but the fraudulent practices of tenants, and the mischief intended by the said acts to be prevented, have of late years rather increased, to the great loss and damage of their lessors or landlords; for remedy whereof be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, that from and after the first day of May in the year of our Lord one thousand seven hundred and forty-two, in case any tenant or tenants, any person or persons paying any rentcharge or rentcharges, fee-farmer or fee-farmers, lessee or lessees for life or lives, term of years at will, sufferance, or otherwise, of any messuages, lands, tenements, or hereditaments, upon the grant, demise, or holding whereof any rent is or shall be reserved, due, or made payable, shall fraudulently or clandestinely convey away, or carry off, or from such premises, his, her, or their goods or chattels to prevent the grantee or grantees of rentcharges, grantor or grantors of fee-farms, landlord or lessor, landlords or lessors, from distraining the same for arrears of rent so reserved due or made payable; it shall and may be lawful to and for every grantee or grantees, landlord or lessor, landlords or lessors within this Kingdom, or any person or persons by him, her, or them, for that purpose lawfully empowered, within the space of twenty days next ensuing such conveying away or carrying off such goods or chattels as aforesaid, to take and seize such goods or chattels wherever the same shall be found, as a distress for the said arrears of rent, and the same to sell, or otherwise dispose of, in such manner, as if the said goods and chattels had actually been distrained by such grantee or grantees, lessor or landlord, lessors or landlords, in and upon such premises for such arrears of rent; any law, custom, or usage to the contrary in anywise notwithstanding.

If tenants convey away goods to prevent distress landlords may in twenty days seize wherever found, and dispose as if in premises.

2. Provided always, that no landlord or lessor, or other persons entitled to such arrears of rent, shall take or seize any such goods or chattels as distress for the same, which shall be sold *bona fide*, and for a valuable consideration, before such seizure made, to any person or persons not privy to such fraud.

Unless before seizure sold to persons not privy.

5. And be it further enacted by the authority aforesaid, that from and after the first day of May, which shall be in the year of our Lord one thousand seven hundred and forty-two, it shall and may be lawful to and for every grantee or grantees of rentcharges, grantor or grantors of fee-farms, lessor or landlord, lessors or landlords, or his or their steward, bailiff, receiver, or other person or persons empowered by him, her, or them, to take and seize as a distress for arrears of rent any cattle, or stock of their respective tenant or tenants, feeding or depasturing upon any common appen-

Tenants stock on common appendant, &c., may be distrained, &c.

\* See as to distress generally, notes to L. and T. Act, 1860, sect. 51, *ante*, pp. 93-99.

15 Geo. II.  
c. 8.

dant or appurtenant, or any ways belonging to all or any part of the premises demised or holden; and the same to sell or otherwise dispose of in such manner, as if the said goods and chattels had actually been distrained by such grantee or grantees, grantor or grantors, lessor or landlord, lessors or landlords, in and upon such premises for such arrears of rent; any law, custom, or usage to the contrary notwithstanding.

Inconveniences both to landlords and tenants on removal of distress

6. And whereas great difficulties and inconveniences frequently arise to landlords and lessors, and other persons taking distress for rent, in removing the goods and chattels or stock distrained off the premises, in cases where by law they may not be impounded and secured thereupon; and also to the tenants themselves many times by the damages unavoidably done to such goods and chattels or stock in the removal thereof: Be it enacted by the authority aforesaid, and from and after the said first day of May one thousand seven hundred and forty-two, it shall and may be lawful to and for any person or persons lawfully taking any distress for any kind of rent, to impound or otherwise secure the distress so made of whatever nature or kind soever it may be, in such place, or on such part of the premises chargeable with the rent, as shall be most fit and convenient for the impounding and securing such distress; and to appraise, sell, and dispose of the same upon the premises in like manner, and under the like directions and restraints, to all intents and purposes as any person taking a distress for rent may now do off the premises and that it shall and may be lawful to and for any person or persons whatever to come and go to and from such place or part of the said premises, where any distress for rent shall be impounded and lectured as aforesaid, in order to view, appraise, and buy, and also in order to carry off or remove the same, on account of the purchase thereof; and if any pound-breach or rescous shall be made of any goods, or chattels, or stock distrained for rent, and impounded or otherwise secured by virtue of this act, the person or persons aggrieved thereby shall have the like remedy, as in cases of pound-breach or rescous.

Distress may be impounded on the premises and sold.

25 Geo II.,  
c. 18.

25 GEO. II., CHAP. 13 (1R.).\*

Distress for rent, unless redeemed in 8 days, sold by public sale.

5. And whereas the manner in which distresses taken for rent services, fee-farm-rents, or rent charges, have been often disposed of have occasioned troublesome and vexatious suits; be it enacted by the authority aforesaid, That from and after the first day of May next all distresses lawfully taken for any such rent or arrears of rent shall, unless redeemed within eight days after the same shall be distrained as aforesaid, be sold by public sale to the highest and fairest bidder or bidders at such time or times, and in such convenient place or places, as the person distraining, his agent or bailiff shall for that purpose appoint; such person, his agent or bailiff after default made in redeeming such distress within the time aforesaid first causing one or more notice or notices in writing of the place and time intended for such sale to be posted up six days previous to the time of such sale in the next market town to such

Notices posted

\* For other regulations as to the sale of goods distrained, see *ante*, pp. 97-8, and 9 & 10 Vic. c. 111, *post*, pp. 929-931.

place at the usual place in such market town for posting up public notices; and that the price and prices, for which such distress or distresses shall be *bona fide* then and there sold, shall be deemed and taken as between all the parties aforesaid, and all persons deriving under them respectively, to be the full and real value of such distress or distresses; and that such value shall not be afterwards questioned in any court of law or equity; and in case such distress or distresses shall be sold for more than is due and owing to the person or persons for whose benefit such distress or distresses shall be taken, such overplus, after deducting thereout all necessary expenses attending the taking and selling the said distress, shall be paid over to the person and persons from whom such distress and distresses shall be taken.

25 Geo II.  
c. 13.

5 GEO. III., CHAP. 17 (IR.).†

AN ACT FOR ENCOURAGING THE PLANTING OF TIMBER TREES.

WHEREAS the distress this kingdom must soon be in for want of timber, is most obvious; and whereas it is equal to inheritors, whether tenants do not plant, or have a property in what they plant: be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the first day of September, one thousand seven hundred and sixty-six, tenants for lives renewable for ever, paying the rents and performing the other covenants in their leases, shall not be impeachable of waste in timber trees or woods, which they shall hereafter plant, any covenant in leases or settlements heretofore made, law, or usage to the contrary notwithstanding.

5 Geo III,  
c 17.

Tenants not impeachable of waste in trees planted by them notwithstanding law or usage. Amended Geo. 3, 20 Sec. 11, 17, 18, Geo 3, c 35

2. Be it enacted by the authority aforesaid, That from the time aforesaid any tenant for life or lives by settlement, dower, courtesy, jointure, lease, or any office, civil, military, or ecclesiastical, impeachable of waste, or any tenant for years exceeding twelve years unexpired, shall plant sally, ozier, or willows, the sole property of such shall during the continuance of the term vest in the tenant, and he may cut and fell the same under the restrictions hereafter mentioned; and if such tenant shall plant any timber trees of oak, ash, elm, fir, pine, walnut, chesnut, horse chesnut, quicken, or wild ash, alder, poplar, or other timber trees, such tenant during the term shall be intitled to house boot, plow boot, cart boot, and car boot of such trees by him planted; and at the expiration of such term, or where such trees shall have attained maturity, which shall first happen, shall be intitled to the said trees or the value of them according to the directions hereafter mentioned, any covenant heretofore made, law, or usage to the contrary notwithstanding.

Tenant for Life or Lives by settlement, or above 12 years planting sally or willows, may fell under restrictions

3. Provided always, and be it enacted by the authority aforesaid, That each person so planting shall within six months next after such planting lodge with the clerk of the peace of the county, where such plantation is made, a certificate under the hand of the tenant, containing the number and kind of the trees planted, their height, and years growth at the time of planting, and a clear description

On certificate being lodged of the number kind, height, and growth, filed separate, and entered alphabetically.

† See Landlord and Tenant Act, 1860, sec. 31, and notes thereto, *ante*, pp. 62-64. See also Timber Act, 1883, *ante*, p. 450; *Peckland v. Sonerville*, 2 I. Ch. R., 289; *Ex. p. Armstrong*, 8 Ir. Ch. R. 80; and *Moore's Est.* 361 L. T. R. 14.

5 Geo III  
c. 17.

of the places and manner wherein they shall be planted; which certificate shall be kept on a separate file among the records of the county, and entered in an alphabetical book by the denomination of the land in the said county; and such certificate or copy thereof attested by the acting clerk of the peace, shall be evidence of notice of such plantation in all courts; for filing of which certificate, alphabeting the same in the book, and making and attesting a copy thereof, the clerk of the peace shall receive a fee of one shilling and no more, and a copy of such certificate six pence and no more and to which book and certificate all persons may resort, during each quarter sessions to be held for such county, without any fee.

4. (*Where term uncertain, tenant may, for one year after its expiration, enter and cut registered timber, making reasonable satisfaction for the trespass.*)

15 & 16 Geo.  
III c. 26.

Trees deemed  
timber within  
this and every  
other Act

15 & 16 GEO. III., CHAP. 26 (1R.).

3. And be it further enacted by the authority aforesaid, That a oak, beech, ash, elm, larch, sycamore, walnut, chesnut, cherry, lime, poplar, alder, quicken, or mountain ash, holly, timber, willow, aspen, birch, cedar, pine and fir trees, shall be deemed and taken to be timber trees, within the true meaning and provision of this act, and of every other act now in force in this kingdom relative to timber trees.

19 & 20 Geo  
III., c. 30.

Lands held  
under leases for  
lives renewable  
on payment of  
fines as herein

19 & 20 GEO. III., CHAP. 30 (1R.).\*

AN ACT FOR THE RELIEF OF TENANTS HOLDING UNDER LEASES FOR LIVES CONTAINING COVENANTS FOR PERPETUAL RENEWALS.

WHEREAS great parts of the lands in this kingdom are held under leases for lives with covenants for perpetual renewals upon payment of certain fines at the times therein respectively mentioned for each renewal; and whereas from various accidents and causes such tenants, and those deriving under them, have frequently neglected to pay or tender such fines within the times prescribed by such covenants after the fall of such lives respectively: and whereas many such leases are settled to make provision for families and creditors most of whom must be utterly ruined, if advantage shall be taken of such neglects, which will occasion much confusion and distress in the kingdom; and whereas it has been for a long time a received opinion in this kingdom, to which some decisions in courts of equity and declarations of judges have given countenance, that courts of equity would in such cases relieve against the lapse of time upon giving an adequate compensation to the persons, to whom such fines were payable, or their representatives: and to the end that such interests may not be defeated by a mere neglect, where no fraud appears to have been intended, upon making full satisfaction to the lessors, or those deriving under them; be it declared and enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in the present Parliament assembled, and by the authority of the same, that courts of equity upon an adequate compensation being made

\* For cases decided under this Act, see notes to Landlord and Tenant Act 1860, Sec. 72, ante, p. 130.

shall relieve such tenants and their assigns against such lapse of time, if no circumstance of fraud be proved against such tenants or their assigns; unless it shall be proved to the satisfaction of such courts, that the landlords or lessors, or persons entitled to receive such fines, had demanded such fines from such tenants or their assigns, and that the same had been refused or neglected to be paid within a reasonable time after such demand.

19 & 20 Geo.  
III., c. 39.

2. Provided always, and be it enacted by the authority aforesaid, that in case the landlord shall find any difficulty in discovering his tenant or the assignee of such tenant, so as to make a demand on such tenant or assignee, that then and in every such case a demand made of the said fine on the lands from the principal occupier of the same, together with a notice of such demand, to be inserted for the space of two months in the London and Dublin Gazettes, shall be considered to all intents and purposes a demand within this Act.

If difficult to  
discover tenant,  
or assignee,  
demand on the  
lands as herein.

23 & 24 GEO. III., CHAP. 39 (Ir.).\*

23 & 24 Geo.  
III., c. 39

AN ACT TO AMEND THE LAWS FOR THE ENCOURAGEMENT OF  
PLANTING TIMBER TREES.

WHEREAS the laws for the encouragement of tenants to plant timber trees have proved ineffectual: Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, any tenant for life or lives, by settlement, dower, courtesy, jointure, lease, or office civil, military, or ecclesiastical, impeachable of waste, or any tenant for years, exceeding fourteen years unexpired, who shall plant, or cause to be planted, any timber trees of oak, ash, elm, beech, fir, alder, or any other trees, shall be entitled to cut, fell, and dispose of the same, or any part of the same, at any time during the term.

Tenants for life  
impeachable of  
waste, &c., who  
plant, may cut,  
fell, and dispose  
of the same  
during the term.

2. Provided always, That any tenant so planting or causing to be planted, shall, within twelve calendar months after such planting, lodge with the Clerk of the Peace of the county, or county of a city where such plantation shall be made, an affidavit sworn before some justice of the peace of the said county, reciting the number and kinds of the trees planted, and the name of the lands, in form following:—

Tenants so  
planting must  
make affidavit of  
number and  
kind.

I, *A. B.*, do swear, that I have planted, or caused to be planted, within twelve calendar months last past, on the lands of \_\_\_\_\_, in the parish of \_\_\_\_\_, held by me from \_\_\_\_\_, the following trees [here reciting the number and kind of trees], and that I have given notice to the person or persons under whom I immediately derive, or his, her, or their agent, of my intention to register said trees, twenty days at the least previous to this day, and that I have given notice of my intention to register said trees, by publick advertisement in the *Dublin Gazette*, thirty days at the least previous to the date hereof, or else, " and that I have also given notice of the same in writing to the head landlord, owner or owners of said ground,

The oath.

\* See 5 Geo. III., c. 17 (Ir.), and 15 & 16 Geo. III., c. 26, *ante*, pp. 925-6. See also notes to Landlord and Tenant Act, 1860, Sec. 31, pp. 62-4, *ante*; and Timber Act, 1888, p. 430, *ante*.

23 & 24 Geo. III., c. 39; or his or their agent, twenty days previous to the date hereof" [a the case may be].

Which affidavit the Clerk of the Peace is directed to keep on a separate file, amongst the records of the county, and to enter in an alphabetical book, by the denomination of the land; for filing which affidavit, alphabetizing the same, and making and attesting a copy thereof, the Clerk of the Peace shall receive one shilling, and for a copy of the affidavit given at any after time sixpence; and to which book and affidavit any person may resort, at and during any Quarter Sessions of the Peace for said county, paying three pence; and such Clerk of the Peace is hereby directed to read in open Court, at every general Quarter Sessions, all affidavits as aforesaid, which shall have been lodged with him at any time since the general Quarter Sessions next preceding the same, under the penalty of twenty shillings for every omission, to be recovered by civil bill by any person who shall sue for the same within twelve months after the Quarter Sessions at which he ought to have publicly read such affidavit.

Tenant may sell his right to person under whom deriving.

7. And whereas it may be advantageous to all persons concerned that the tenant may sell his or her right and title in said trees to the person under whom he or she may derive; be it enacted, that an tenant may sell his or her right, title, and property in said trees or coppices, or any part of the same, to any person under whom he or she may derive mediately or immediately, and that the person so purchasing shall have all rights, titles, and properties, and privilege therein, which are, or by this Act shall be secured to said tenant.

In writing with two witnesses, as herein.

8. Provided always, and to prevent disputes touching the sale or transfer of said trees or coppices, that no sale or transfer of the same shall be deemed good in law, unless and until the same shall be done in writing, and signed by said tenant with his or her name or mark, attested by two credible witnesses, and an attested copy of said writing or instrument lodged with the Clerk of the Peace in open Court, at some Quarter Sessions of the Peace for the county or county of a city, having been first proved to be a true copy by some credible witnesses upon oath before the justices at said sessions which copy the Clerk of the Peace is hereby directed to keep on the same file with the affidavits in this Act mentioned, and to alphabetize in the same book, and for so doing the Clerk of the Peace shall receive from the purchaser one shilling; and to said book an affidavit all persons shall have access at any time, paying sixpence; and an attested copy of the copy of such writing or instrument signed by the acting Clerk of the Peace, shall be deemed in all Courts to be evidence of the due registry of such writing or instrument, and such copy the Clerk of the Peace shall be at all times obliged to give on receiving sixpence; and any Clerk of the Peace refusing to give such copy within three days after it shall be demanded, shall forfeit the sum of five pounds, to be recovered by civil bill, by any one who shall sue for the same, within six months and if the head or principal landlord shall so purchase the said trees or coppices from an under-tenant, having a right to sell the same, then, from and after the registry of the sale as aforesaid, the said trees shall belong to said landlord in as full and ample manner as if they were his own original right or royalty, notwithstanding



standing any intermediate term that may exist between the term of the said under tenant, and the estate of the said landlord. **23 & 24 Geo. III., c. 39.**

9. And be it enacted, that when the term of the tenant entitled to the property of the trees, by this Act, shall be for life or uncertain, the said tenant shall have the same liberty for the space of one year after the expiration of his lease, to enter upon the said lands, and to cut, carry away, and dispose of the said trees, as if his lease had been unexpired (*making reasonable compensation for damages incurred by so doing*). Where lease uncertain, tenant shall have 1 year from expiration to cut, &c

21. And be it enacted, that nothing herein shall be construed to extend or relate to any trees planted, or to be planted in pursuance of any covenant contained in any lease, nor to affect or invalidate any such covenants. This Act not to extend to plantations by covenant.

22. And be it enacted, that nothing herein contained shall extend to tenants evicted for non-payment of rent. Nor to tenants, evicted for non-payment of rent.

9 & 10 VIC, CHAP. 111.\*

9 & 10 Vict.,  
c 111.

AN ACT TO AMEND THE LAW IN IRELAND AS TO EJECTMENTS AND DISTRESSES, AND AS TO THE OCCUPATION OF LANDS.

[28th August, 1846.]

(*Secs. 1 to 9 are repealed by the 1. & T. Act, 1860, "so far as they relate to the relation of landlord and tenant in Ireland."* See Sch. B to that Act, ante, p. 159.)

10. And be it enacted, that in all cases of distress for rent cognizable in any court whether superior or inferior, the person making any such distress shall at the time of making such distress deliver to the person in possession of the premises for the rent of which such distress shall be made, or, in case there shall not be any person found in possession, shall affix on some conspicuous part of such premises, a Particular in writing of the rent demanded, specifying the amount thereof, the time or times when the same accrued, and the name and place of abode of the person by whom, and (if the person who acts in the making of the distress be not the party claiming to be entitled to the rent for which the distress is made) the name of the person by whose authority such distress is made, or otherwise such distress shall be unlawful and void: Provided always, that if the person by whom or by whose authority such distress shall be made shall be the party substantially and beneficially entitled to the rent, such distress shall not be unlawful or void by reason that the person having the legal estate in the reversion is not named in such notice: Provided also, that if any such distress shall be in other respects sustainable and well founded, the same shall not be unlawful or void by reason that the amount of rent demanded by such notice shall not be the exact amount due if the mis-statement of such rent in such notice shall have been made by mistake, and without fraud or malice, or want of reasonable care. In all cases of distress for rent a written notice of the rent claimed shall be given

11. And be it enacted, that in every case of distress for rent a tender of the rent in arrear and of the charges of such distress at any time before the commencement of the sale of the property Distress not unlawful on account of mistakes, &c.

\* See as to distress generally, notes to Landlord and Tenant Act, 1860, sec. 51, ante, pp. 93-99.

In cases of distress for rent a tender of the amount before sale shall be sufficient to stay proceedings.

§ 10 Vict.  
c 111

distrained shall be sufficient to stay the proceedings on such distress, and to entitle the person distrained upon to a return of the property so distrained; and the party whose goods shall be distrained shall be at liberty to plead such tender in bar to any avowry or cognizance, and shall be entitled to recover damages in an action on the case against the party by whom or by whose agent or bailiff the goods so distrained shall be withheld after such tender, and for the purposes of this Act the bailiff appointed in writing by the known agent or receiver of any landlord, or of the person substantially and beneficially entitled to the rent for which the distress shall be made, shall be deemed to be the bailiff of such landlord or person so entitled.

No distress for rent shall be lawful unless by virtue of a warrant properly signed

12. And be it enacted, that no distress for rent made otherwise than by the landlord of any premises, or his known agent or receiver in person, shall be lawful, unless made by virtue of a written or printed warrant or order to distrain signed by the landlord or person substantially and beneficially entitled to the rent for which the distress shall be made, or his known agent or receiver, directing the bailiff or other person to distrain the tenant or tenants, person or persons named therein, and bearing upon it the date when and the name of the place at which it is signed, nor unless such warrant or order shall be signed within twenty days next before the time when such distress shall be made: provided always that such warrant or order to distrain shall be free from the payment of any stamp duty.

Warrant free from stamp duty

The provisions of the 56 Geo III, c 85, authorizing the distraining of growing crops for rent repealed, except as to any distress commenced before the passing of this Act

13. And whereas by an Act passed in the fifty-sixth year of his late Majesty King George the Third, intituled "An Act to amend the law of Ireland respecting the recovery of tenements from absconding, overholding, and defaulting tenants, and for the protection of the tenant from undue distress," it is enacted, "that it shall be lawful for every lessor or landlord in that part of the United Kingdom of Great Britain and Ireland called Ireland, or his, her, or their steward, bailiff, receiver, or other person or person empowered by him, her, or them, to take and seize as a distress for arrears of rent all sorts of corn and grass, hops, roots, fruit, pulse, or other product whatsoever, which shall be growing on any part of the estates so demised or holden as a distress for arrears of rent, and the same to cut, gather, make, cure, carry, and lay up, when ripe, in the barns or other proper place on the premises so demised or holden, and in case there shall be no barn or proper place on the premises so demised or holden, then in any other barns or proper place which such lessor or landlord, lessors or landlords, shall hire or otherwise procure for that purpose, and as near as may be to the premises, and dispose of the same for satisfaction of the rent for which such distress shall have been taken, and of the charges of such distress and sale, in the same manner as any other goods and chattels distrained for non-payment of rent": And whereas it is expedient that the said recited enactment should be repealed; be it therefore enacted, that the said enactment of the said recited Act shall be and the same is hereby repealed, save and except as to any distress made or commenced before the passing of this Act.

Party distraining for rent not to be deemed a

14. And be it enacted, that where any distress shall be made for any rent justly due, and any irregularity or unlawful Act sha

be afterwards done by the party distraining, or by his agents, the distress itself shall not be therefore deemed to be unlawful, nor the party a trespasser, *ab initio*, but the party aggrieved shall receive full satisfaction for the special damage sustained thereby, and no more, in an action of trespass or on the case, *and where such plaintiff shall recover he shall be paid his full costs*:\* Provided always, that no tenant shall recover for such irregularity if tender of amends hath been made by the party distraining, or his agent, before action brought.

9 & 10 Vic.  
c. 111.

trespasser *ab initio* by reason of subsequent irregularity

15. And whereas it is expedient to limit and regulate the costs of distresses in Ireland as it has been done in England by an Act passed in the fifty-seventh year of his late Majesty King George the Third, intituled "An Act to regulate the costs of distresses levied for payment of small rents," as amended by an Act of the seventh and eighth years of the reign of His late Majesty King George the Fourth; be it enacted, that from and after the passing of this Act no person whatsoever making any distress for rent, or for any rates, taxes, impositions, or assessments, where the sum demanded and due shall not exceed the sum of twenty pounds for and in respect of such rent or rates, taxes, impositions, or assessments, save as hereinafter provided, nor any person whatsoever employed in any manner in making such distress, or doing any act whatsoever in the course of such distress, or for carrying the same into effect, shall have, take, or receive out of the produce of the goods or chattels distrained upon and sold, or from the tenant distrained on, or from the landlord, or from any other person whatsoever, any other or more costs and charges for and in respect of such distress, or any matter or thing done therein, than such as are fixed and set forth in the Schedule (B) hereunto annexed, and appropriated to each Act which shall have been done in the course of such distress; and no person or persons whatsoever shall make any charge whatsoever for any act, matter, or thing mentioned in the said schedule, unless such act shall have been really done: provided always that in any case in which a less amount than the amount specified in the said schedule shall have been prescribed by any Act or Acts of Parliament, or shall in pursuance of the provisions of or the power given by any Act or Acts of Parliament be specified in the warrant by which the distress or levy shall be made, such less amount only shall be demanded, taken, or levied for or in respect of such costs and charges; any thing in this Act to the contrary notwithstanding.

57 Geo. III,  
c. 93, 7 & 8  
Geo. IV, c. 17

No person making any distress for rent, taxes, rates, &c., where the sum due shall not exceed £20, to take other charges than mentioned in the schedule annexed, not to charge for any act, &c. not done

20. And be it enacted, that every broker, bailiff, or other person who shall make and levy any distress whatsoever shall, if the same shall be demanded by the party distrained, give a copy of his charges, and of all the costs and charges of the distress whatsoever, signed by him, to the person or persons on whose goods and chattels any distress shall be levied, although the amount of the rent, taxes, rates, impositions, or assessments demanded shall exceed the sum of twenty pounds, and upon default of so doing he shall be liable to forfeit any sum not exceeding forty shillings, to be recovered before any two Justices of the Peace acting for such district. (*Remainder of Section repealed by Statute Law Revision Act, 1892.*)

Brokers and others making any distress to give copies of their charges to the persons distrained.

\* The words in italics are repealed by Statute Law Revision Act, 1892.

9 & 10 Vic,  
c. 111.

SCHEDULE (B.).

*Schedule of Limitation of Costs and Charges on Distresses for small rents, or rates, taxes, impositions, or assessments not exceeding twenty pounds.*

	£	s.
Levying distress .. .. .	0	2
Man in possession, per day each (but not exceeding two in number, unless upon information sworn before a Justice that a rescue or violence is apprehended) .. .. .	0	2
All expenses of advertisements, if any such .. .. .	0	5
Catalogues, sale, and commission, and delivery of goods, 1s. in the pound on the net produce of the sale, if sold by a licensed auctioneer; otherwise, 6d. in the pound on the net produce of the sale.		

11 & 12 Vic,  
c. 47.

11 & 12 VIC., CAP. 47.

AN ACT FOR THE PROTECTION AND RELIEF OF THE DESTITUTE POOR EVICTED FROM THEIR DWELLINGS IN IRELAND.\*

[14th August, 1848]

No writ, &c., for taking possession of Land in Ireland shall be executed on the days or within the times herein mentioned

WHEREAS it is expedient to regulate the time of executing process for taking possession of land, and to provide for the better relief of the destitute poor evicted from their dwellings in Ireland: Be it therefore enacted, &c., that from and after the passing of this Act no writ of *habere facias possessionem*, decree, order, or other process for the delivering up or taking possession of land in Ireland, shall be executed on any Christmas Day or Good Friday, nor on any day within the time after the commencement of two hours next before sunset, and before sunrise, or six o'clock in the morning whichever shall be latest.

Notice of execution of writ to be given by landowner, &c., to relieving officer of electoral division in which the same shall be situate

2. And be it enacted, that not less than forty-eight hours before any such writ, decree, order, or process as aforesaid for delivering up or taking possession of land on which there shall be any inhabited dwelling-house, or building used as a dwelling-house, shall be executed in any county in Ireland, the landowner or other person by whom or on whose behalf such writ, decree, order, or other process as aforesaid shall have been sued out, or his agent, shall give notice in writing to the relieving officer of the electoral division in which such land shall be situate, and such notice shall set forth the parish or barony, electoral division, and townland in which the land of which possession is so to be delivered up or taken is situate

Notice, how to be given.

3. And be it enacted, that every notice to be given to any relieving officer under this Act shall be given by delivering the same to such relieving officer, or by leaving the same, directed to such relieving officer, at his dwelling house or office, or by letter sent by the post directed to the relieving officer at such dwelling house or office; and in case the same shall be so sent by the post such notice shall be delivered directed, open and in duplicate, to the postmaster of any post office, and the postmaster shall compare the notice and the duplicate, and on being satisfied that they are alike shall forward one of them to its address by the post, and shall return the other to the party bringing the same, stamped with the stamp of the said post office; and such postmaster shall be entitled to have and receive from the person delivering such letter the rate

\* For cases decided under this Act, see notes to Land Act, 1837, Sec. 7, and p. 410.

of postage payable for the same, and the sum of sixpence, and no more; and such stamped duplicate shall be evidence of the notice having been given on the day on which such notice would in the ordinary course of post, have been delivered at such dwelling-house or office of the relieving officer.

11 & 12 Vic.  
c. 47.

4. (*Persons becoming destitute by becoming dispossessed may apply to relieving officer, who shall provide shelter, &c.*)

5. (*Notice to be given to any occupier of a dwelling-house who has not had notice in the action.*)

6. And be it enacted, that in case the landlord or other person by whom or on whose behalf such writ, decree, order, or other process shall have been sued out shall neglect or omit to serve the notice required by this Act to be served on the relieving officer, he shall forfeit and pay the sum of twenty pounds to the guardians of the union in which the land shall be situate; and such sum may be recovered by civil bill or otherwise, and shall be applied in aid of the rates of the electoral division in which such land shall be situate, and, in case such landlord or other person shall be resident out of Ireland, may be recovered from him by action at law; and the service of process in such action on the attorney or agent by whom such writ, decree, order, or other process may have been sued out shall be good service on such landlord or other person as aforesaid.

Penalty on  
executing writ  
without notice.

7. And be it enacted, that whosoever, with intent to dispossess any person actually dwelling in a house or other building used as a dwelling-house (whether such person shall be so dwelling under a continuing tenancy or holding over after the expiration thereof, or otherwise, shall, except so far as may be necessary to enable the sheriff or his officer to effect an entrance thereto, pull down, demolish, or unroof, in whole or in part, or cause to be pulled down, demolished, or unroofed, in whole or in part, such dwelling-house or building used as a dwelling-house, whilst such person or any of his family shall be actually within the same, shall be guilty of a misdemeanour.

The unroofing,  
&c., of dwellings  
for the purpose  
of expelling the  
occupier a mis-  
demeanour.

RENEWABLE LEASEHOLD CONVERSION ACT  
(12 & 13 VIC., CHAP. 105).

AN ACT FOR CONVERTING THE RENEWABLE LEASEHOLD TENURE OF  
LANDS IN IRELAND INTO A TENURE IN FEE.

[1st August, 1849.]

10. And be it enacted, that all covenants by law implied on the part of landlord or tenant upon any lease or under-lease in perpetuity to the owner of which a grant is made under this Act shall be implied upon such grant, and every covenant for payment of rent, and every other covenant contained in pursuance of this Act in any such grant as aforesaid, in substitution for a like covenant in the lease or under-lease to the owner of which such grant is made, where such last-mentioned covenant is of such a nature as that the burden thereof doth by law run with the land, and bind the assignee of such lease or under-lease, and every covenant implied under this Act upon any such grant where the burden of the implied covenant for which the same is in substitution was upon the owner of such

Covenants  
running with  
the lands.

12 & 13 Vic.,  
c. 105.

lease or under-lease, shall run with the estate in fee simple into which the estate held under such lease or under-lease is converted under this Act, and the owner or assignee for the time being of such estate in fee simple shall be chargeable upon such covenant in the same manner and to the same extent as if he were owner or assignee of the term or interest created by such lease or under-lease, and such term or interest, and the estate out of which such lease or under-lease was derived, were still subsisting, and the benefit of such covenants shall run with the estate into which such estate is converted under this Act, and the owner or assignee for the time being of the estate created by such conversion shall have the full benefit of such covenants, and be entitled to maintain action thereon; and every covenant contained in pursuance of this Act in any such grant as aforesaid, in substitution for a like covenant in such lease or under-lease as aforesaid, where such last-mentioned covenant is of such a nature as that the burden thereof doth by law run with the estate out of which such lease or under-lease was derived, or bind the assignee of such estate, and every covenant implied under this Act upon any such grant where the burden of the implied covenant for which the same is in substitution was upon the owner of the estate out of which such lease or under-lease was derived, shall run with the estate into which such estate is converted under this Act; and the owner or assignee for the time being of the estate created by such conversion shall be chargeable upon such covenants in the same manner and to the same extent as if he were owner or assignee of such estate so converted, and such estate and lease or under-lease were still subsisting, and the benefit of such covenants shall run with the estate in fee simple into which the estate held under such lease or under-lease is converted under this Act, and the owner or assignee for the time being of such estate in fee simple shall have the full benefit of such covenant and be entitled to maintain actions thereon (a).

(a) See notes to L. & T. Act, 1860, sec. 12, *ante*, pp. 36-37.

Acquisition of  
land charged  
with fee-farm  
rent to operate  
as apportion-  
ment of rent

16. And be it enacted, that where any fee-farm rent shall be charged upon any lands by any grant made under this Act, the acquisition of a part of such lands by the person entitled to such fee-farm rent, whether such acquisition shall be by descent, by purchase, or by escheat, shall operate so as to extinguish only a proportionate part of the rent to which such person shall be entitled, and the remaining part of such rent shall be recoverable out of the residue of such lands in the same manner as the whole rent would have been recoverable if such acquisition had not been made (a); and in such case such fee-farm rent shall be apportioned by the agreement of the persons interested, and, in default thereof according to the relative amounts of the value of the lands so acquired and the value of the residue of such lands, in the same manner as rent service is now by law apportionable upon an alienation of the reversion in part of the lands.

(a) See L. & T. Act, 1860, Sec. 44, *ante*, p. 841.

Fee-farm rent  
recoverable by  
like remedies  
as rent-service,  
&c.

20.\* And be it enacted, that the fee-farm rent made payable by any grant under this Act, or by any grant made after the passing

\* This section is printed, omitting the portions repealed by Stat. Law. Repeal Act, 1892.

of this Act, shall be recoverable by distress, ejectment for non-payment of rent, action of debt, covenant, and all other ways, means, remedies, actions, suits, or otherwise, by which rent-service reserved on any common lease or demise for a life or lives is or may be by law recoverable; and all the enactments relating to ejectment for non-payment of rent, distress, or other remedies for recovery thereof, shall apply to every such fee-farm rent as aforesaid, as fully and effectually as if the same were rent-service reserved on a lease for a life or lives; and in proceedings by ejectment for nonpayment of such fee-farm rent under the statutes for the time being in force in Ireland in relation to ejectment for nonpayment of rent made applicable under this act to such fee-farm rent as aforesaid, the receipt of such fee-farm rent for three years by the lessor of the plaintiff, or any person or persons through whom he claims, shall have the same force and effect as a similar receipt of rent-service reserved on any lease for life or lives would have in proceedings by ejectment for nonpayment of such rent under such statutes; and in actions of replivin, debt, or covenant, or other proceeding founded on such grant as aforesaid, proof that the said plaintiff or other person, or any person or persons through whom he claims, has or have been in possession or in the receipt of such fee-farm rent for three years shall be sufficient evidence of the title of the plaintiff or other person thereto, as in cases of ejectment for nonpayment of rent under the statutes in force in relation thereto; and if in any such action of ejectment as aforesaid judgment be given for the plaintiff, and execution executed, or if any entry be made in respect of such fee-farm rent as aforesaid, or by virtue of any condition for re-entry contained in any such grant as aforesaid, then the estate in the lands acquired under such judgment and execution or by such entry shall be of the like nature, and shall be subject to the same or the like uses, trusts, charges, liens, equities, rights, and incumbrances, as if such judgment and execution or such entry had been in respect of an estate in reversion, and of a rent or of a condition, as the case may be, incident thereto, and such estate in reversion had stood limited to the same uses and trusts, and subject to the same charges, liens, equities, rights, and incumbrances, to which such fee-farm rent stood limited or subject.

21.\* And be it enacted, that if in any action of ejectment brought on account of the non-payment of any fee-farm rent made payable by any such grant as aforesaid, pursuant to the statutes for the time being in force in Ireland as to actions of ejectment for non-payment of rent (a), judgment be given for the plaintiff, and execution executed, and the person who has made default in payment of the rent, or the person who but for such ejectment would for the time being have been the party to make the payment from time to time thereafter becoming due, do not, within six calendar months from the time of such execution executed, do such acts or take such proceedings as are or may be by law necessary for the redemption of the lands from the said judgment and execution (all which acts and proceedings he is hereby authorized to do and take

12 & 13 Vic.  
c. 105.

In ejectment  
for nonpay-  
ment of fee-  
farm rent,  
power to  
redeem given  
to certain  
persons.

\* This section is printed, omitting the portions repealed by Stat. Law. Rev. Act, 1892.

12 & 13 Vic.,  
c 105.

in the same manner and with the same effect to all intents and purposes as if he were the tenant or lessee of the person causing such ejectment to be brought), then and in every such case it shall be lawful for the owner of or any person having an estate or interest in any fee-farm rent made payable by any such grant as aforesaid out of the whole or any part of such lands, or for the owner of or any person having an estate or interest in the lands out of which such fee-farm rent is payable, or any part thereof, within nine calendar months after such execution executed, to do such acts and take such proceedings for the redemption of the said lands from the said judgment and execution, and for obtaining relief in respect of the same, as under the statutes last aforesaid any mortgagee of a lease might do or take for the redemption of such lease, or his estate or interest therein, from any judgment and execution in any action of ejectment for nonpayment of rent pursuant to such statutes, and for obtaining relief in respect of the same; and any redemption made pursuant to such statutes shall operate so as to restore all estates and interests in rents or in lands which shall have been defeated by the entry or ejectment, and when such redemption as last aforesaid has been made, or when any such redemption has been made under the statutes aforesaid by any mortgagee or any other person, which redemption he is hereby authorized to make, all sums of money paid or advanced on account thereof, and the costs thereof, shall be and be deemed a lien and charge in favour of the person paying the same, his executors or administrators, not only upon the estate or interest of the person making such default as aforesaid, but upon all the inheritance in which such estate or interest is subsisting, in priority to all other interest or charges whatever upon such inheritance, save and except any charges created under the Acts relating to the drainage of lands or to the improvement of lands in Ireland; and such sums of money and costs shall also be recoverable by the person paying the same from the person who has made such default, or his representatives, in and by an action of debt; and all sums of money paid and costs incurred in respect of such lien or charge by any person damnified thereby shall also be recoverable by such person from the person who has made default, or his representatives, in manner aforesaid; and it shall be lawful for any person having the benefit of such lien or charge, or damnified thereby as aforesaid, to apply by petition in a summary way to the Court of Chancery for the appointment of a receiver over such estate, interest, or inheritance, and which receiver it shall be lawful for the said Courts respectively to appoint and to continue until all such sums of money and costs, with interest and the costs of such petition and of the proceedings thereunder, are fully paid and discharged, and to make such order in reference to such petition as to such Courts respectively may seem fit.

(a) As to ejectments for nonpayment of fee-farm rents, see Landlord and Tenant Act, 1860, Sec. 52, and notes thereto, *ante*, p. 102, and as to the right of redemption in such cases, see, *ante*, p. 124.



## 14 &amp; 15 VIC., CHAP. 20.

14 & 15 Vic  
c. 20.

AN ACT TO EXTEND THE REMEDIES PROVIDED BY THE RENEWABLE LEASEHOLD CONVERSION ACT, FOR THE RECOVERY OF FEE-FARM RENTS UNDER THAT ACT, TO ALL OTHER FEE-FARM RENTS, AND TO OTHER RENTS IN IRELAND RESERVED UPON GRANTS OF LAND IN WHICH THE GRANTORS HAVE NO REVERSION.

[3rd July, 1851.]

[Preamble repealed Stat. Law Rev Act, 1892.]

1. All the powers, remedies, provisions, and enactments referred to and contained in the said hereinbefore mentioned sections of the said recited Act (12 & 13 Vic., c. 105, ss. 20 & 21) shall henceforth extend and be applicable to all fee-farm rents, and also to other rents reserved and payable under any grants, conveyances, or written instruments granting or containing agreements for granting any lands, tenements, or hereditaments in fee simple, or for a life or lives, or for years, or for a life or lives and a term of years, or for a life or lives concurrent with a term of years, and reserving or purporting to reserve thereout rent payable to the grantor or party agreeing to make such grant, or to his or their respective representatives, where the person to whom such rent is or shall be payable has or shall have no reversion in such land; save and except that nothing in this Act contained shall give or confer or be deemed to give or confer any remedy by ejection for non-payment of rent, in the case of any fee-farm rent or rent reserved upon any grant or agreement for a grant in fee (other than a fee-farm rent under the said recited Act); and save and except that nothing herein contained shall extend or refer to or include the provisions contained in the said twenty-first section of the said recited Act relating to the lien or charge in the said section mentioned.

Provisions of  
recited Act  
extended to  
Fee-farm and  
other Rents  
under Lease for  
Lives or for  
Years, save as  
herein excepted

[Remainder of the Section repealed by Stat. Law Rev. Act, 1892.]

LANDED ESTATES COURT ACT, 1858.  
(21 & 22 VIC., C. 72.)21 & 22 Vic.  
c. 72.

AN ACT TO FACILITATE THE SALE AND TRANSFER OF LAND IN IRELAND.\*

[2nd August, 1858.]

37. The said "Landed Estates Court, Ireland," shall have all the powers, authority, and jurisdiction of a Court of Equity in Ireland, for the investigation of title, and for ascertaining and allowing incumbrances and charges, and the amounts due thereon, and settling the priority of such charges and incumbrances respectively, and the rights of owners and others, and generally for ascertaining, declaring, and allowing the rights of all persons in any land in respect of which application may be made under this Act, or in the money to arise from sales under this Act, upon

Court to be a  
Court of Record  
and shall have  
power, &c. of a  
Court of Equity.

\* Secs. 37, 64, 65, 66, 68, 69, 70, 72, 73, and 76 of this Act are incorporated by Land Purchase Act, 1885, Sec. 10 (*ante*, p. 880), Secs. 79 to 82 are incorporated by Sec. 11 of the same Act (*ante*, p. 381). As a vesting order under the Land Purchase Acts, is given the same effect as a Landed Estates Court Conveyance (Land Purchase Act, 1885, Sec. 9), Secs. 61 and 62 of this Act, though not in terms incorporated by the Land Purchase Acts, are printed here also, for convenience of reference.

21 & 22 Vic.  
c. 72.

such applications, and shall have the like authority and jurisdiction for enforcing, rescinding, or varying any contract for sale made under this Act, and in other matters incident to or consequent on a sale under this Act, as are vested in a Court of Equity in relation to a sale under the direction of such Court.

[Remainder of Section repealed by Stat. Law Rev. Act, 1893, No. 1]

Conveyance to purchaser to pass fee, subject to tenancies, but discharged from all estates and incumbrances.

61. Every such Conveyance executed as aforesaid by the said Judge purporting to pass an estate in fee-simple shall be effectual to pass the fee-simple and inheritance of the land, subject to such charges, tenancies, rights of common, or other easements, leases and under-leases, as may be expressed or referred to therein as aforesaid, but, save as aforesaid, and as hereinafter provided, discharged from all former and other estates, rights, titles, charges and incumbrances whatsoever of her Majesty, her heirs and successors, and of all other persons whomsoever; and every such conveyance or assignment executed by the said Judge upon the sale of a lease or rentcharge, or an annuity charged on land, or any partial or lesser estate than an estate in fee-simple, shall be effectual to pass the estate created or agreed to be created by such lease, then remaining unexpired, or by the Instrument creating such lesser or partial estate, rentcharge, or annuity, but subject as to such lease to the rent and covenants annexed to the reversion expectant on the determination of such lease and as to such instrument creating such rentcharge, annuity, or partial or lesser estate, subject to such tenancies, rights of common or other easements, leases, and under leases, as shall be expressed or referred to in such conveyance or assignment, but, save as aforesaid, and as hereinafter provided discharged from all rights, titles, charges, and incumbrances whatsoever affecting the leasehold estate or interest, rentcharge, annuity or partial or lesser estate: Provided always, that where any land or lease, or part thereof, shall be sold and conveyed or assigned subject to any annual charge or apportioned part thereof (as the case may be) shall remain and be charged on and payable out of such land, or part thereof, as in the conveyance or assignment shall be expressed.

Conveyance of a lease, rentcharge annuity, or partial estate to pass estate created by the instrument purporting to grant same

Conveyance, &c. not to affect certain charges made by virtue of 5 & 6 Vic, c. 39, and 10 & 11 Vic, c. 32, except where Court think fit to redeem Crown rents, &c

62. Provided always, that any conveyance, assignment, or declaration of title under this Act shall not prejudice or affect any rentcharge in lieu of tithes, Crown rent, or quitrent charge upon or issuing out of any land, or any charge made by virtue of an Act passed in the sixth year of Her Majesty, intituled an Act to promote the Drainage of Lands and Improvement of Navigation and Water Power in connexion with such Drainage in Ireland, and the Acts amending the same, or by virtue of an Act passed in the tenth year of Her Majesty, intituled an Act to facilitate the Improvement of Landed Property in Ireland, save where the said Court shall think fit to redeem or apportion the Crown rents or quitrents, or any part thereof, or to pay off or redeem the charge under the said Acts, or either of them, under the power hereinafter contained, and shall express in such conveyance and assignment that the land conveyed or assigned thereby is so conveyed or assigned discharged of all Crown rents or quitrents or charges under the said Acts or either of them, as the case may be, and in such case such land shall be so discharged accordingly: Provided always, that i

every case in which application shall be made to the Court for the sale or conveyance of, or declaration of title to, the fee-simple of any land, or hereditaments, the Judge, before making any final order for such sale, conveyance, or declaration, shall be satisfied that one calendar month's previous notice in writing of such application has been given to the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, on behalf of Her Majesty or her successors, stating full particulars of the land or hereditaments for the sale or conveyance of, or declaration of title to, which application has been or is intended to be made, and of any rent payable to Her Majesty or her successors in respect of the same.

21 & 22 Vic.  
c. 72.

64. The Court shall, out of the purchase money to be received on any sale under this Act, where any sale has been made in any matter of a petition filed in the said Court, allow and pay such costs of and consequential on the application for the sale and the expenses of and incidental to the sale, according to the provisions contained in the twelfth section of the statute of the sixteenth and seventeenth of the reign of Her Majesty, chapter sixty-four, and the surplus of such purchase money, after payment of such costs and expenses, shall, under the order of the Court, be applied in or towards payment or satisfaction of the incumbrances or charges, if any, which affect such land or part thereof, according to their priorities, and shall, subject as aforesaid, be paid to the owner where such owner was absolutely entitled thereto, or, where not so entitled, be laid out in the purchase of land, which shall be limited and settled to the same uses, upon the same trusts, for the same purposes, and in the same manner as the land or part thereof sold stood settled or limited to, or such of them as shall be then subsisting or capable of taking effect; and until such money can be so laid out it may, under such order as aforesaid, be transferred or paid over to the trustees to be appointed or approved by the Court for the purpose of being so laid out as aforesaid, with such power for the investment thereof in Government Stocks, Funds, or securities in the meantime, and such directions for the payment of the income of such investment in the manner in which the rents of the land to be purchased would be applicable, as the Court shall think fit: Provided always, that if by mistake or otherwise any purchase money shall, under the provisions aforesaid, have been paid to any person or persons as being the person or persons absolutely entitled thereto when he or they were not so entitled, such money shall be deemed to have been paid to him or them upon an express trust to invest the same in the purchase of lands to be settled to the uses and upon the trusts to and upon which the lands sold stood limited, settled, and assured at the time of the sale.

Application of  
purchase money.

65. Where the Judge shall be of opinion that from the nature of the case the proceedings must be protracted, the money so paid into the bank as aforesaid may, by order of the Court, be invested in the purchase of any stocks, funds, or annuities transferable at the Bank of Ireland in such manner as shall be directed by any general or special order of the Court, and until the same shall be sold by order of the Court for the purposes of this Act, the dividends thereof shall from time to time be applied, under the order of the Court, in like manner as the rents of the land or lease,

Court may invest  
at instance of  
parties for their  
benefit.

21 & 22 Vic.,  
c. 72

Where it is expedient to appoint, change, or remove, &c., trustees, Judge to make orders as to vesting property in new trustees as in 13 & 14 Vic., c. 60, and 15 & 16 Vic., c. 55

Court may vest property in new trustees

Court may provide for redemption of certain charges

or part thereof, from the sale whereof the money invested in such stocks, funds, or annuities has arisen, would have been applicable, the investments in and sale of such stocks, funds, and annuities to be made through a stockbroker or stockbrokers to be appointed by the Court by general or special order, as the Court may think fit.

66. Whenever in the course of proceedings in any petition matter pending before the Court it shall appear expedient to appoint, change, or remove trustees, it shall and may be lawful for the Judge to make such orders, and give such directions in reference to such appointment, change, or removal, and in reference to the vesting property in new trustees, as the Lord High Chancellor is empowered to make under the authority vested in him for such purposes by "The Trustee Act, 1850," and also by another Act passed in the session of Parliament holden in the fifteenth and sixteenth years of the reign of Her Majesty, intituled "An Act to extend the Provisions of the Trustee Act, 1850," and by any other Act which may be passed in relation to trustees.

67. Whenever the Court shall appoint or direct the appointment of trustees for any of the purposes of this Act, it shall be lawful for the Judge to make or to direct to be made such provision as he shall think fit for the appointment of new trustees on any event to be determined by the Court.

68.\* It shall be lawful for the Court, with the consent in writing of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or one of them, to apportion any crown rent upon or amongst the several lands liable to the payment thereof, or to charge the whole of any such rent on any part of the lands charged therewith in exoneration of the remainder of such lands, and every such apportionment or exclusive charge shall be binding on the Queen's Majesty and on every corporation and person, and the apportioned parts of any such Crown rent, or any such Crown rent so exclusively charged, shall thenceforth be issuing out of and chargeable upon the lands whereon the same may be apportioned or exclusively charged, but no such apportionment or exclusive charge shall in any manner prejudice or affect any reversion or remainder of the Crown in any lands originally charged with any such rent so apportioned or exclusively charged, nor shall the sale of any apportioned part of any Crown rent, or of any Crown rent so exclusively charged, or of any interest in the reversion or remainder of the Crown in the same lands, affect the right or interest of the Crown in any other part of the lands originally charged with any rent so apportioned or exclusively charged, either as regards the rent remaining unsold, or the Crown's interest in the remainder or reversion of such lands or otherwise; and it shall also be lawful for the Court to sell any land, or part thereof, discharged from any Crown rent or quit rent which it may be enabled, and may, with the consent of the owner, think fit to purchase, or from any charge made by virtue of the said Acts of the sixth and tenth years of Her Majesty, or either of them, which it may, with such consent,

\* Sec. 12 of the Crown Lands Act, 1894 (57 and 58 Vic., c. 43) provides that the power conferred by this section "shall extend to any quit rent or other perpetual rent payable to the Crown in respect of land in Ireland, and may be exercised whether the land liable to the payment of the rent is being sold by the High Court or not."

think fit to pay off or redeem; and in any such case the Court shall out of the money arising from the sale, and in preference to all other payments thereout, pay the consideration for the purchase of such Crown rent or quit rent, or such sum as may be necessary for paying off or redeeming such charge; and it shall be lawful for the Court, where it shall think fit, to purchase, with the consent of the said Commissioners of Woods, any estate or interest of the Crown, in remainder or reversion, in the whole or any part of the lands for the sale of or declaration of title to which application has been made, or to pay to any person entitled to any annual or other charge, not being an incumbrance according to the definition of this Act, who may consent to accept the same, a gross sum in discharge or by way of redemption thereof or of a part thereof, and where a part only of any land or lease subject to any incumbrance or charge is sold, to charge the part not sold with such incumbrance or charge, or an apportioned part thereof, in exoneration of the money arising from the sale, and to enable or authorize persons to release the money arising from the part so sold from any incumbrance or charge, or to relinquish their claim on such money in respect thereof, without impairing or affecting such incumbrance or charge as to the remaining part of the land or lease originally charged; and the Court, where it shall think fit, may invest or provide for the investment of money to meet any annual or periodical charge, or any other charge, incumbrance, or interest, where, by reason of such charge, incumbrance, or interest being contingent or otherwise, it shall appear to the Court proper or expedient so to do, and otherwise may make such orders and directions for applying the money arising from any sale in such manner as will secure the convenient application thereof for the benefit and according to the rights of the parties interested in the land or part thereof from the sale of which the same shall have arisen.

69. Provided always, that no payment under this Act towards discharge of what shall be due on any incumbrance or charge, not being payment in full, shall prejudice or affect any right or remedy of the incumbrancer or the person entitled to the charge in respect of the balance otherwise than against the land or part thereof, sold under this Act; and no payment under this Act for or in respect of any incumbrance or charge shall impair any right or equity of any persons out of whose estate such payment shall be made to be reimbursed or indemnified by any person or out of any other land or estate, except so far as the Court under any special circumstances shall order.

70. Where any money arising from a sale under this Act is not immediately distributable, or the parties entitled thereto cannot be ascertained, or where from any other cause the Court may think it expedient for the protection of the rights and interests therein, the Court, at its discretion, may order such money, or any stocks, funds, or securities in which the same may have been invested under this Act, to be transferred to the account of the Accountant General of the High Court of Chancery, or (where the case may require) of the High Court of Chancery in England, in the matter of the parties interested in the same, to be described as the Court

21 & 22 Vic.  
c. 72.

No payment not being in full to affect right of incumbrancer: for balance, and no payment in respect of any incumbrance to impair remedy over.

Power to Court to order money to be paid into Court of Chancery.

21 & 22 Vic.  
c 72

shall think fit and direct, in trust to attend the orders of such Courts respectively, and the Court may by its order declare the trust affecting such money, stocks, funds, or securities, so far as it may have ascertained the same, or state (for the information of the respective Courts) the facts or matters found by it in relation to the rights and interests therein, and the High Court of Chancery, Lord Chancellor, and Master of the Rolls, in England and Ireland respectively, may make such orders and give such directions in relation to any such moneys, stocks, funds, or securities as shall be so transferred to the account of the Accountant General of such respective Court, as such Court or Judge respectively might make or give in relation to any trusts, moneys, stocks, or securities paid in, transferred, or deposited under the Act passed in the eleventh year of Her Majesty, "for better securing Trust Funds, and for the Relief of Trustees," or the Act of the eleventh and twelfth year of the reign of Her Majesty, for extending to Ireland the said Act of the eleventh year of Her Majesty respectively.

[Remainder of Section repealed by Stat. Law Rev. Act, 1893.]

If land sold be subject to a lease, &c., comprising other land, or if part of lease in perpetuity, &c., be sold, Court may apportion the rent

72. If any land to be sold under this Act shall be subject to a lease or under-lease for years or lives comprising other land at an entire rent, it shall be lawful for the Court to apportion the rent between the land to be sold and the remainder of the land subject to such rent; and where it is intended to sell under this Act a part only of any lease in perpetuity or other lease, it shall be lawful for the Court, where it shall think fit, and (having regard to the rights and interests of the owner of the reversion) it shall appear to the Court just so to do, to apportion the rent reserved by such lease between the land to be sold and the remainder of the land; and the Court shall direct notices of any such intended apportionment as aforesaid to be given to such persons and in such manner as it shall think fit, and shall hear such parties as shall apply to them in relation thereto; and after such apportionment and after the sale shall be completed, the owners of the reversion in the respective lands shall have the like remedies for the apportioned rents against the lands out of which the same shall be payable, and the owners and occupiers thereof respectively, as were subsisting for the entire rent before such apportionment, and all the covenants, conditions, and agreements of every lease or under lease, except as to the amount of rent to be paid, shall, as regards the apportioned parts, remain in force in the same manner as they would have done in case no such application had taken place. Provided always, that the enactment in this section shall be deemed to apply to any rent reserved upon a lease, where the Court shall have sold or shall sell the reversion expectant upon such lease at different times or in different lots.

Provisions for persons under disability

73. Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceedings under this Act, shall be a minor, idiot, lunatic, or married woman, the guardian committee of the estate and husband respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such persons respectively, if free from disability, might

have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act: but a married woman entitled for her separate use (with or without power of anticipation) shall, for the purposes of this Act be deemed a feme sole: Provided always, that where there shall be no guardian or committee of the estate of any such person as aforesaid being infant, idiot, or lunatic, or where any person, the committee of whose estate, if he were an idiot or lunatic, would be authorised to act for and represent such person under this Act, shall be of unsound mind, or incapable of managing his affairs, but shall not have been found idiot or lunatic under an inquisition, it shall be lawful for the Court to appoint a guardian of such person for the purpose of any proceedings under this Act, and from time to time to change such guardian; and where the Court sees fit it may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time remove or change such next friend.

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c. 72

76. Proceedings under this Act shall not abate or be suspended by any death or transmission, or change of interest, but in any such case of death or transmission, or change of interest, it shall be lawful for the Court, where it shall see fit, to require notices to be given to persons becoming interested, or to make any order for discontinuing, suspending, or carrying on the proceedings or otherwise in relation thereto, which to it may appear just.

Proceedings  
not to abate  
by death

79.\* Where an application shall be made for a sale under this Act of an undivided share of any land, or where any such undivided share shall have been sold under this Act, and either before or after the conveyance or assignment thereof under this Act, the Court on the application of any party interested in such undivided share, or of the purchaser (as the case may be), and after causing to be given such notices to the owner or owners of the other undivided share or shares of the same land or lease as it may think fit, and hearing such parties interested in the respective shares as may apply to it, and making or causing to be made such inquiries as may enable it to make a just partition, may, if it shall think fit, make an order under its seal for the partition of such land; and in such order, or in a map or plan annexed hereto, shall be shown the part allotted in severalty in respect of each of the undivided shares in such land; and the Court shall have the like authorities, jurisdiction, and power in relation to such partition under the direction of such Court; and the part so allotted in severalty in respect of each such undivided share by such order for partition as aforesaid shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts, and be subject to the same conditions, charges, and incumbrances, as the undivided share in respect of which the same if so allotted would have stood limited or been subject to in case such order had not been made; and the like order for the sale of a part allotted in respect of the undivided share to which the application for the sale shall relate may be made (where the order for partition is made before the sale), and the like proceedings had in relation to such sale, and the like conveyance

On application  
for sale of an  
undivided share,  
or after sale  
Court may, on  
application of  
party interested,  
and giving  
notices and  
hearing parties,  
make order for  
a partition.

\* Secs. 79, 80, 81, and 82 are incorporated by the 11th Sect. of the Land Purchase Act, 1885. *Ante*, p. 391.

21 & 22 Vic.  
c. 72.

or assignment may be made of the part allotted in respect of the share sold (where the order for partition is made after sale, and before conveyance or assignment), and with the like consequence in the several cases aforesaid, as if the application for a sale, or the sale (as the case may be), had been in respect of the part so allotted as aforesaid; and where any land or lease, or part thereof, to be sold under this Act, is subject to any lease, under-lease, or tenancy under which the lessees, under-lessees, or tenants hold jointly, or as tenants in common, it shall be lawful for the Court on the application of any such lessee, underlessee, or tenants, and after causing to be given such notices as it may think fit, and hearing such parties as may apply to it, and making such inquiries as it may think necessary, to make an order under its seal for the partition, as between such lessees, under-lessees, or tenants of the land included in their lease, under-lease, or tenancy, and for the apportionment of the rent reserved or payable under such lease, under-lease, or tenancy; and after such order of partition the owners of the reversion in the respective parts of the land shall have the like remedies for the apportioned rents against the respective part out of which the same shall be payable, and the lessees, under-lessees, or tenants holding such respective parts, under such lease, under-lease, or tenancy, and such order of partition, as were subsisting for the entire rent before such partition and apportionment and all the covenants, conditions, and agreements of every such lease, under-lease, or tenancy, except as to the amount of rent to be paid, shall, as regards the respective parts allotted on such partition, and the apportioned parts of the rent, remain in force against the respective lessees, under-lessees, or tenants to whom under such partition such respective parts shall be allotted.

On application for sale, or after sale, Court, on application of party interested and with consent, may make order for exchange

80. Where an application shall be made for a sale under this Act of any land or part thereof, or where the same shall have been sold under this Act, and either before or after the conveyance or assignment thereof under this Act, if application be made to the Court by any party interested in such land, or by the purchaser (as the case may be) for the exchange of all or any part of such land for other land which the owner thereof may be willing to give in exchange, the Court may make or cause to be made such inquiries as they think fit, for ascertaining whether such exchange would be beneficial to the person interested in the respective lands, and cause such notice to be given to parties interested in the respective lands, as it may think fit; and if, after making such inquiries, and hearing such parties interested in the respective lands as may apply to them, the Court shall be of opinion that such exchange would be beneficial and that the terms thereof as proposed, or as modified by it, with the consent of such owner, as aforesaid, are just and reasonable, the said Court may make an order under their seal for such exchange accordingly, and in such order for exchange, or in a map or plan annexed thereto, shall be shown the lands given and taken in exchange respectively under such order; and the land taken up in such exchange under such order shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts, and be subject to the same condition



charges, and incumbrances, as the land given on such exchange would have stood limited or been subject to in case such order had not been made; and the like order for a sale may be made by the Court in respect of the land taken in exchange for any land to which the application for a sale shall relate (where the order for exchange is made before sale), and the like proceedings had in relation to such sale, and the like conveyance or assignment may be made in respect of the land taken in exchange for the land or part thereof sold (where the order for exchange is made after sale, and before conveyance or assignment), and with the like consequences in the several cases aforesaid, as if applicable for a sale, or the sale (as the case may be) had been in respect of the land taken in exchange.

21 & 22 Vict.  
c. 72.

81. It shall be lawful for the Court, on the application of the owners of the several undivided shares (not subject to be sold under this Act, or as to which no proceedings for a sale under this Act shall be pending) of any land in Ireland who shall desire to effect a partition of such land, to make or cause to be made such inquiries as the Court may think fit for ascertaining whether such partition would be beneficial to the persons interested in such respective shares; and in case the Court shall be of opinion that the proposed partition would be beneficial and that the terms thereof are just and reasonable, it shall make an order under their seal for such partition accordingly; and in such order, or in a map or plan annexed thereto, shall be shown the part allotted in severalty in respect of each such undivided share, and the part so allotted in severalty in respect of such undivided share, by such order of partition shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same use, and be subject to the same conditions, charges, and incumbrances, as the undivided share in respect of which the same is so allotted would have stood limited or been subject to in case such order had not been made.

Partition may be made of lands where shares are not subject to be sold under this Act.

82. It shall be lawful for the Court, upon the application of the owner of lands in Ireland not subject to be sold under this Act, or as to which no proceedings for a sale under this Act shall be pending, who shall desire to effect an exchange of such lands, to make or cause to be made such inquiries as the Court may think fit for ascertaining whether such exchange would be beneficial to the persons interested in the respective lands; and in case the Court shall be of opinion that the proposed exchange would be beneficial, and that the terms thereof are just and reasonable, they shall make an order under their seal for such exchange accordingly; and in such order for exchange, or in a map or plan annexed thereto, shall be shown the lands given and taken in exchange respectively under such order; and the land taken upon such exchange under such order shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts, and be subject to the same conditions, charges, and incumbrances, as the land given upon such exchange would have stood limited or been subject to in case such order had not been made.

Exchanges may be made of lands not subject to be sold under this Act.

34 & 35 Vic.  
c. 79.

34 &amp; 35 VIC., CAP. 79.

AN ACT TO PROTECT THE GOODS OF LODGERS AGAINST DISTRESSES  
FOR RENT DUE TO THE SUPERIOR LANDLORD.

[16th August, 1871

[*Preamble repealed Stat. Law Rev. Act, 1893, No. 2.*]Lodger, if dis-  
tress levied, to  
make declaration  
that immediate  
tenant has no  
property in  
goods distrained

1. If any superior landlord shall levy or authorise to be levied a distress on any furniture, goods, or chattels of any lodger for arrears of rent due to such superior landlord by his immediate tenant, such lodger may serve such superior landlord, or the bailiff or other person employed by him to levy such distress, with a declaration in writing made by such lodger, setting forth that such immediate tenant has no right of property or beneficial interest in the furniture, goods, or chattels so distrained or threatened to be distrained upon, and that such furniture, goods, or chattels are the property or in the lawful possession of such lodger; and also setting forth whether any and what rent is due and for what period from such lodger to his immediate landlord; and such lodger may pay to the superior landlord, or to the bailiff or other person employed by him as aforesaid, the rent, if any, so due as last aforesaid, or so much thereof as shall be sufficient to discharge the claim of such superior landlord. And to such declaration shall be annexed a correct inventory, subscribed by the lodger, of the furniture, goods, and chattels referred to in the declaration; and any lodger shall make or subscribe such declaration and inventory knowing the same or either of them to be untrue in any material particular, he shall be deemed guilty of a misdemeanour.

Penalty

2. If any superior landlord, or any bailiff or other person employed by him, shall, after being served with the before-mentioned declaration and inventory, and after the lodger shall have paid or tendered to such superior landlord, bailiff, or other person the rent, if any, which by the last preceding section such lodger is authorised to pay, shall levy or proceed with a distress on the furniture, goods, or chattels of the lodger, such superior landlord, bailiff, or other person shall be deemed guilty of an illegal distress, and the lodger may apply to a Justice of the Peace for an order for the restoration to him of such goods; and such application shall be heard before a stipendiary magistrate, or before two justices of the peace at any place where there is no stipendiary magistrate, and such magistrate or justices shall inquire into the truth of such declaration and inventory, and shall make such order for the recovery of the goods or otherwise as to him or them may seem just, and the superior landlord shall also be liable to an action at law at the suit of the lodger, in which action the truth of the declaration and inventory may likewise be inquired into.

Proviso as to  
payments by  
lodger to  
superior land-  
lord.  
Act not to extend  
to Scotland.

3. Any payment made by any lodger pursuant to the first section of this Act shall be deemed a valid payment on account of a rent due from him to his immediate landlord.

4. This Act shall not extend to Scotland.

CONVEYANCING AND LAW OF PROPERTY ACT, 1881.\* 44 & 45 Vic.  
c. 41.  
(44 & 45 VICT., CAP. 41.)

[22nd August, 1881.]

19.—(1.) A mortgagee, where the mortgage is made by deed, shall, by virtue of this Act, have the following powers, to the like extent as if they had been in terms conferred by the mortgage deed, but not further (namely):

Powers incident  
to estate or  
interest of  
mortgagee.

- (i.) A power when the mortgage money has become due, to sell, or to concur with any other person in selling, the mortgaged property, or any part thereof, either subject to prior charges, or not, and either together or in lots, by public auction or by private contract, subject to such conditions respecting title, or evidence of title, or other matter, as he (the mortgagee) thinks fit, with power to vary any contract for sale, and to buy in at an auction or to rescind any contract for sale and to re-sell, without being answerable for any loss occasioned thereby; and
- (ii.) A power, at any time after the date of the mortgage deed, to insure and keep insured against loss or damage by fire any building, or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the mortgaged property, and the premiums paid for any such insurance shall be a charge on the mortgaged property, in addition to the mortgage money, and with the same priority, and with interest at the same rate, as the mortgage money; and
- (iii.) A power, when the mortgage money has become due, to appoint a receiver of the income of the mortgaged property, or of any part thereof; and
- (iv.) A power, while the mortgagee is in possession, to cut and sell timber and other trees ripe for cutting, and not planted or left standing for shelter or ornament, or to contract for any such cutting and sale, to be completed within any time not exceeding twelve months from the making of the contract.

(2.) The provisions of this Act relating to the foregoing powers, comprised either in this Section, or in any subsequent Section regulating the exercise of those powers, may be varied or extended by the mortgage deed, and so varied or extended, shall, as far as may be, operate in the like manner and with all the like incidents, effects, and consequences, as if such variations or extensions were contained in this Act.

(3.) This Section applies only if and as far as a contrary intention is not expressed in the mortgage deed, and shall have effect subject to the terms of the mortgage deed and to the provisions therein contained.

(4.) This Section applies only where the mortgage deed is executed after the commencement of this Act.

21.—(1.) A mortgagee exercising the power of sale conferred by this Act shall have power, by deed, to convey the property sold,

Conveyance  
receipt, &c.,  
on sale

\* The Sections here printed are incorporated by the 18th Sect. of the Land Act, 1887. See *ante*, p. 423

44 & 45 Vic.  
c. 41.

for such estate and interest therein as is the subject of the mortgage freed from all estates, interests, and rights to which the mortgage has priority, but subject to all estates, interests, and rights which have priority to the mortgage; except that, in the case of copyhold or customary land, the legal right to admittance shall not pass by deed under this Section, unless the deed is sufficient otherwise by law, or is sufficient by custom, in that behalf.

(2.) Where a conveyance is made in professed exercise of the power of sale conferred by this Act, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised; but a person damnified by an unauthorized, or improper, or irregular exercise of the power shall have his remedy in damages against the person exercising the power.

(3.) The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances to which the sale is not made subject, if any, or after payment into Court under this Act of a sum to meet any prior incumbrance, shall be held by him in trust to be applied by him, first, in payment of all costs, charges and expenses, properly incurred by him, as incident to the sale or any attempted sale, or otherwise; and secondly, in discharge of the mortgage money, interest, and costs, and other money, if any, due under the mortgage; and the residue of the money so received shall be paid to the person entitled to the mortgage property, or authorized to give receipts for the proceeds of the sale thereof.

(4.) The power of sale conferred by this Act may be exercised by any person for the time being entitled to receive and give a discharge for the mortgage money.

(5.) The power of sale conferred by this Act shall not affect the right of foreclosure.

(6.) The mortgagee, his executors, administrators, or assigns, shall not be answerable for any involuntary loss happening in or about the exercise or execution of the power of sale conferred by this Act or of any trust connected therewith.

(7.) At any time after the power of sale conferred by this Act has become exercisable, the person entitled to exercise the same may demand and recover from any person, other than a person having in the mortgaged property an estate, interest, or right of priority to the mortgage, all the deeds and documents relating to the property, or to the title thereto, which a purchaser under the power of sale would be entitled to demand and recover from him.

**22.**—(1.) The receipt in writing of a mortgagee shall be a sufficient discharge for any money arising under the power of sale conferred by this Act, or for any money or securities comprised in his mortgage, or arising thereunder; and a person paying or transferring the same to the mortgagee shall not be concerned to inquire whether any money remains due under the mortgage.

(2.) Money received by a mortgagee under his mortgage or from the proceeds of securities comprised in his mortgage shall be applied in like manner as in this Act directed respecting money received

Mortgagee's  
receipts, dis-  
charges, &c.

by him arising from a sale under the power of sale conferred by this Act; but with this variation, that the costs, charges, and expenses payable shall include the costs, charges, and expenses properly incurred of recovering and receiving the money or securities, and of conversion of securities into money, instead of those incident to sale.

44 & 45 Vic.  
c. 41.

SETTLED LAND ACT, 1882.\*  
(45 & 46 VICT., CAP. 38.)

[10th August, 1882.]

*Definitions.*

2.—(1. Any deed, will, agreement for a settlement, or other agreement, covenant to surrender, copy of Court roll, Act of Parliament, or other instrument, or any number of instruments, whether made or passed before or after, or partly before and partly after, the commencement of this Act, under or by virtue of which instrument or instruments any land, or any estate or interest in land, stands for the time being limited to or in trust for any persons by way of succession, creates or is for purposes of this Act a settlement, and is in this Act referred to as a settlement, or as the settlement, as the case requires.

45 & 46 Vic.  
c. 38.  
—  
Definition of  
settlement,  
tenant for  
life, &c

(2.) An estate or interest in remainder or reversion not disposed of by a settlement, and reverting to the settlor or descending to the testator's heir, is for purposes of this Act an estate or interest coming to the settlor or heir under or by virtue of the settlement, and comprised in the subject of the settlement.

(3.) Land, and any estate or interest therein, which is the subject of a settlement, is for purposes of this Act settled land, and is, in relation to the settlement, referred to in this Act as the settled land.

(4.) The determination of the question whether land is settled land, for purposes of this Act, or not, is governed by the state of facts, and the limitations of the settlement, at the time of the settlement taking effect.

(5.) The person who is for the time being, under a settlement, beneficially entitled to possession of settled land, for his life, is for purposes of this Act the tenant for life of that land, and the tenant for life under that settlement.

(6.) If, in any case, there are two or more persons so entitled as tenants in common, or as joint tenants, or for other concurrent estates or interests, they together constitute the tenant for life for purposes of this Act.

(7.) A person being tenant for life within the foregoing definitions shall be deemed to be such notwithstanding that, under the settlement or otherwise, the settled land, or his estate or interest therein, is incumbered or charged in any manner or to any extent.

(8.) The persons, if any, who are for the time being under a settlement, trustees with power of sale of settled land, or with power of consent to or approval of the exercise of such a power of

\* See Land Purchase Act, 1885, Sec. 6, *ante*, p. 374, and Land Act, 1887, Secs. 14 and 16, *ante*, pp. 419 and 425.

45 & 46 Vic.  
c 38.

sale, or if under a settlement there are no such trustees, then the persons, if any, for the time being, who are by the settlement declared to be trustees thereof for purposes of this Act, are for purposes of this Act trustees of the settlement.\*

(9.) Capital money arising under this Act, and receivable for the trusts and purposes of the settlement, is in this Act referred to as capital money arising under this Act.

(10.) (*Provides that land shall include incorporeal hereditaments, an undivided share in land, &c.*)

*Sale; enfranchisement; exchange; partition*

Powers to  
tenant for life  
to sell, &c.

**3.** A tenant for life—

- (i.) May sell the settled land, or any part thereof, or any easement, right, or privilege, of any kind, over or in relation to the same; and
- (ii.) (*Where the settlement comprises a manor,—may sell the seignory of any freehold land within the manor*);
- (iii.) (*May make an exchange of the settled land, or any part thereof*);
- (iv.) (*Where the settlement comprises an undivided share in land may concur in making partition*).

Transfer of  
incumbrances  
on land sold, &c

**5.** Where on a sale, exchange, or partition there is an incumbrance affecting land sold or given in exchange or an partition, the tenant for life, with the consent of the incumbrancer, may charge that incumbrance on any other part of the settled land, whether already charged therewith or not, in exoneration of the part sold or so given, and, by conveyance of the fee simple, or other estate or interest the subject of the settlement, or by creation of a term of years in the settled land, or otherwise, make provision accordingly.

*Investment or other Application of Capital Trust Money.†*

Capital money  
under Act:  
investment, &c.  
by trustees or  
Court.

**21.** Capital money arising under this Act, subject to payment of claims properly payable thereout, and to application thereof for any special authorized object for which the same was raised, shall when received, be invested or otherwise applied wholly in one, or partly in one and partly in another or others, of the following modes (namely):

- (i.) In investment on Government securities, or on other securities on which the trustees of the settlement are by the settlement or by law authorized to invest trust money of the settlement, or on the security of the bonds, mortgages, or debentures, or in the purchase of the debenture stock, of any railway company in Great Britain or Ireland incorporated by special Act of Parliament, and having for ten years next before the date of investment paid a dividend on its ordinary stock or shares, with power to vary the investment into or for any other such securities:

\* This definition is extended by Settled Land Act, 1890, Sec. 16. See *post* p 956.

† Extended powers of investment of capital moneys arising on sales in the Land Purchase Department are given by Secs. 18 & 19 of the Land Purchase Act, 1891. See notes thereto, *ante*, pp. 473-477. See also Settled Land Act, 1887.

- (ii.) In discharge, purchase, or redemption of incumbrances affecting the inheritance of the settled land, or other the whole estate the subject of the settlement, or of land tax, rentcharge in lieu of tithe, Crown rent, chief rent, or quit rent, charged on or payable out of the settled land: 45 & 46 Vic.  
c. 38.
- (iii.) In payment for any improvement authorised by this Act.
- (iv.) In payment for equality of exchange or partition of settled land:
- (v.) In purchase of the seignory of any part of the settled land, being freehold land, or in purchase of the fee simple of any part of the settled land, being copyhold or customary land:
- (vi.) In purchase of the reversion or freehold in fee of any part of the settled land, being leasehold land held for years, or life, or years determinable on life.
- (vii.) In purchase of land in fee simple, or of copyhold or customary land, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines, or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land:
- (viii.) In purchase, either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held or worked with the settled land, or of any easement, right, or privilege convenient to be held with the settled land for mining or other purposes:
- (ix.) In payment to any person becoming absolutely entitled or empowered to give an absolute discharge:
- (x.) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions, of this Act:
- (xi.) In any other mode in which money produced by the exercise of a power of sale in the settlement is applicable thereunder.

22. (1.) Capital money arising under this Act shall, in order to its being invested or applied as aforesaid, be paid either to the trustees of the settlement or into Court, at the option of the tenant for life, and shall be invested or applied by the trustees, or under the direction of the Court, as the case may be, accordingly. Regulations  
respecting  
investments  
devolution,  
income of  
securities, &c.

(2.) The investment or other application by the trustees shall be made according to the direction of the tenant for life, and in default thereof, according to the discretion of the trustees, but in the last mentioned case subject to any consent required or direction given by the settlement with respect to the investment or other application by the trustees of trust money of the settlement; and any investment shall be in the names or under the control of the trustees.

(3.) The investment or other application under the direction of the Court shall be made on the application of the tenant for life, or of the trustees.

45 & 46 Vic.  
c. 38.

(4.) Any investment or other application shall not during the life of the tenant for life be altered without his consent.

(5.) Capital money arising under this Act while remaining uninvested or unapplied, and securities on which an investment of any such capital money is made, shall, for all purposes of disposition, transmission, and devolution, be considered as land, and the same shall be held for and go to the same persons successively, in the same manner and for and on the same estates, interests, and trusts, as the land wherefrom the money arises would, if not disposed of, have been held and have gone under the settlement.

(6.) The income of these securities shall be paid or applied as the income of that land, if not disposed of, would have been payable or applicable under the settlement.

(7.) Those securities may be converted into money, which shall be capital money arising under this Act.

*Contracts.*

Power for tenant  
for life to enter  
into contracts.

31. (1.) A tenant for life—

- (i.) May contract to make any sale, exchange, partition, mortgage, or charge; and
- (ii.) May vary or rescind, with or without consideration, the contract, in the like cases and manner in which, if he were absolute owner of the settled land, he might lawfully vary or rescind the same, but so that the contract as varied be in conformity with this Act; and any such consideration, if paid in money, shall be capital money arising under this Act; and
- (iii.) May contract to make any lease; and in making the lease may vary the terms, with or without consideration, but so that the lease be in conformity with this Act; and
- (iv.) May accept a surrender of a contract for a lease in like manner and on the like terms in and on which he might accept a surrender of a lease; and thereupon may make a new or other contract, or new or other contracts, for or relative to a lease or leases, in like manner and on the like terms in and on which he might make a new or other lease, or new or other leases, where a lease had been granted; and
- (v.) May enter into a contract for or relating to the execution of any improvement authorized by this Act, and may vary or rescind the same; and
- (vi.) May, in any other case, enter into a contract to do any act for carrying into effect any of the purposes of this Act, and may vary or rescind the same.

(2.) Every contract shall be binding on and shall enure for the benefit of the settled land, and shall be enforceable against and by every successor in title for the time being of the tenant for life, and may be carried into effect by any such successor;\* but so that it may be varied or rescinded by any such successor, in the like case and manner, if any, as if it had been made by himself.

\* See now, also, Settled Land Act, 1890, Sec. 6, *post*. p. 956.



(3.) The Court may, on the application of the tenant for life, or of any such successor, or of any person interested in any contract, give directions respecting the enforcing, carrying into effect, varying, or rescinding thereof. 45 & 46 V10,  
c 38.  
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(4.) Any preliminary contract under this Act for or relating to a lease shall not form part of the title or evidence of the title of any person to the lease, or to the benefit thereof.

*Trustees.*

**38.** (1.) If at any time there are no trustees of a settlement within the definition of this Act, or where in any other case it is expedient, for the purposes of this Act, that the new trustees of a settlement be appointed, the Court may, if it thinks fit, on the application of a tenant for life or of any other person having, under the settlement, an estate or interest in the settled land, in possession, remainder, or otherwise, or, in the case of an infant, of his testamentary or other guardian, or next friend, appoint fit persons to be trustees under the settlement for the purposes of this Act. Appointment of  
trustees by  
Court

(2.) The persons so appointed, and the survivors and survivor of them, while continuing to be trustees or trustee, and, until the appointment of new trustees, the personal representatives or representative for the time being of the last surviving or continuing trustee shall for the purposes of this Act become and be the trustees or trustee of the settlement.

**39.** (1.) Notwithstanding anything in this Act, capital money arising under this Act shall not be paid to fewer than two persons as trustees of a settlement, unless the settlement authorizes the receipt of capital trust money of the settlement by one trustee. Number of  
trustees to act.

(2.) Subject thereto, the provisions of this Act referring to the trustees of a settlement apply to the surviving or continuing trustees or trustee of the settlement for the time being.

*Limited Owners Generally.*

**58.** (1.) Each person as follows shall, when the estate or interest of each of them is in possession, have the powers of a tenant for life under this Act, as if each of them were a tenant for life as defined in this Act (namely): Enumeration of  
other limited  
owners, to have  
powers of tenant  
for life.

- (i.) A tenant in tail, including a tenant in tail who is by Act of Parliament restrained from barring or defeating his estate tail, and although the reversion is in the Crown, and so that the exercise by him of his powers under this Act shall bind the Crown, but not including such a tenant in tail where the land in respect whereof he is so restrained was purchased with money provided by Parliament in consideration of public services:
- (ii.) A tenant in fee simple, with an executory limitation, gift, or disposition over, on failure of his issue, or in any other event:
- (iii.) A person entitled to a base fee, although the reversion is in the Crown, and so that the exercise by him of his powers under this Act shall bind the Crown:
- (iv.) A tenant for years determinable on life, not holding merely under a lease at a rent:

45 & 46 Vic.,  
c. 38.

- (v.) A tenant for the life of another, not holding merely under a lease at a rent:
- (vi.) A tenant for his own or any other life, or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate, or by conditional limitation, or otherwise, or to be defeated by an executory limitation, gift, or disposition over, or is subject to a trust for accumulation of income for payment of debts or other purpose:
- (vii.) A tenant in tail after possibility of issue extinct:
- (viii.) A tenant by the courtesy:
- (ix.) A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life, whether subject to expenses of management or not, or until sale of the land, or until forfeiture of his interest therein on bankruptcy or other event.

(2.) In every such case, the provisions of this Act referring to a tenant for life, either as conferring powers on him or otherwise, and to a settlement, and to settled land, shall extend to each of the persons aforesaid, and to the instrument under which his estate or interest arises, and to the land therein comprised.

(3.) In any such case any reference in this Act to death as regards a tenant for life shall, where necessary, be deemed to refer to the determination by death or otherwise of such estate or interest as last aforesaid.

*Infants; Married Women; Lunatics.*

Infant absolutely entitled to be as tenant for life

**59.** Where a person, who is in his own right seised of or entitled in possession to land, is an infant, then for purposes of this Act the land is settled land, and the infant shall be deemed tenant for life thereof.

Tenant for life, infant

**60.** Where a tenant for life, or a person having the powers of a tenant for life under this Act, is an infant, or an infant would, if he were of full age, be a tenant for life, or have the powers of a tenant for life under this Act, the powers of a tenant for life under this Act may be exercised on his behalf by the trustees of the settlement, and if there are none, then by such person and in such manner as the Court, on the application of a testamentary or other guardian or next friend of the infant, either generally or in a particular instance, orders.

Married woman, how to be affected.

**61.** (1.) The foregoing provisions of this Act do not apply in the case of a married woman.

(2.) Where a married woman, who, if she had not been a married woman, would have been a tenant for life or would have had the powers of a tenant for life under the foregoing provisions of this Act, is entitled for her separate use, or is entitled under any statute, passed or to be passed, for her separate property, or as a feme sole, then she, without her husband, shall have the powers of a tenant for life under this Act.

(3.) Where she is entitled otherwise than as aforesaid, then she and her husband together shall have the powers of a tenant for life under this Act.

(4.) The provisions of this Act referring to a tenant for life and

a settlement and settled land shall extend to the married woman without her husband, or to her and her husband together, as the case may require, and to the instrument under which her estate or interest arises, and to the land therein comprised **35 & 36 Vic. c. 38.**

(5.) The married woman may execute, make, and do all deeds, instruments, and things necessary or proper for giving effect to the provisions of this section.

(6.) A restraint on anticipation in the settlement shall not prevent the exercise by her of any power under this Act.

**62.** Where a tenant for life, or a person having the powers of a tenant for life under this Act, is a lunatic, so found by inquisition, the committee of his estate may, in his name and on his behalf, under an order of the Lord Chancellor, or other person intrusted by virtue of the Queen's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics, exercise the powers of a tenant for life under this Act; and the order may be made on the petition of any person interested in the settled land, or of the committee of the estate. Tenant for life, lunatic

#### *Ireland.*

**\*65.** (1.) In the application of this Act to Ireland the foregoing provisions shall be modified as in this section provided. Modifications respecting Ireland

(2.) The Court shall be Her Majesty's High Court of Justice in Ireland.

(3.) All matters within the jurisdiction of that Court shall, subject to the Acts regulating that Court, be assigned to the Chancery Division of that Court; but General Rules under this Act for Ireland may direct that those matters or any of them be assigned to the Land Judges of that division.

(4.) Any deed inrolled under this Act shall be inrolled in the Record and Writ Office of that division.

(5.) General Rules for purposes of this Act for Ireland shall be deemed Rules of Court within the Supreme Court of Judicature Act (Ireland), 1877, and may be made accordingly. 40 & 41 Vict. c. 57.

(6.) The several Civil Bill Courts in Ireland shall, in addition to the jurisdiction possessed by them independently of this Act, have and exercise the power and authority exercisable by the Court under this Act, in all proceedings where the property, the subject of the proceedings, does not exceed in capital value five hundred pounds, or in annual value thirty pounds.

(7.) The provisions of Part II. of the County Officers and Courts (Ireland) Act, 1877, relative to the equitable jurisdiction of the Civil Bill Courts, shall apply to the jurisdiction exercisable by those Courts under this Act. 40 & 41 Vict. c. 58.

(8.) Rules and Orders for purposes of this Act, as far as it relates to Civil Bill Courts, may be made in manner prescribed by section seventy-nine of the County Officers and Courts (Ireland) Act, 1877.

(9.) The Commissioners of Public Works in Ireland shall be substituted for the Land Commissioners.

(10.) The term for which a lease other than a building or mining lease may be granted shall be not exceeding thirty-five years.

\* This section is printed, omitting portions repealed by Stat. Law Rev. Act, 1898.

53 & 54 Vic.,  
c. 69.

## SETTLED LAND ACT, 1890.

(53 & 54 Vic., Cap. 69.)

[18th August, 1890.]

*Completion of Contracts.*

Power to  
complete  
predecessor's  
contract

6. A tenant for life may make any conveyance which is necessary or proper for giving effect to a contract entered into by a predecessor in title, and which if made by such predecessor would have been valid as against his successors in title.

*Trustees.*

Trustees for the  
purposes of the  
Act.

16. Where there are for the time being no trustees of the settlement within the meaning and for the purposes of the Act of 1882, then the following persons shall, for the purposes of the Settled Land Acts, 1882 to 1890, be trustees of the settlement, namely:—

(i.) The persons (if any) who are for the time being under the settlement trustees, with power of or upon trust for sale of any other land comprised in the settlement and subject to the same limitations as the land to be sold, or with power of consent to or approval of the exercise of such a power of sale, or, if there be no such persons, then

(ii.) The persons (if any) who are for the time being under the settlement trustees with future power of sale, or under a future trust for sale of the land to be sold, or with power of consent to or approval of the exercise of such a future power of sale, and whether the power or trust takes effect in all events or not.

Application of  
provisions of 44  
& 45 Vic., c. 41,  
as to appoint-  
ment of trustees

17. (1.) All the powers and provisions contained in the Conveyancing and Law of Property Act, 1881, with reference to the appointment of new trustees, and the discharge and retirement of trustees, are to apply to and include trustees for the purposes of the Settled Land Acts, 1882 to 1890, whether appointed by the Court or by the settlement, or under provisions contained in the settlement.\*

(2.) This section applies and is to have effect with respect to an appointment or a discharge and retirement of trustees taking place before as well as after the passing of this Act.

(3.) This section is not to render invalid or prejudice any appointment or any discharge and retirement of trustees effected before the passing of this Act otherwise than under the provisions of the Conveyancing and Law of Property Act, 1881.

54 & 55 Vic.,  
c. 66.

## LOCAL REGISTRATION OF TITLE ACT, 1891.

(54 & 55 Vic., Cap. 66.)

[5th August, 1891.]

## PART II.

*Register of Landowners.*

Registration  
when to be com-  
pulsory and  
when voluntary.

22. (1.) From and after the commencement of this Act the registration of the ownership of freehold land shall be compulsory where the land has been at any time sold and conveyed to or vested

\* See now, Trustee Act, 1893, Secs 10, 11 and 12.

in a purchaser under any of the provisions of the Purchase of Land (Ireland) Acts,\* and is subject to any charge in respect of an annuity or rentcharge for the repayment of an advance made under any of the said provisions on account of the purchase money. In all other cases first registration under this Act shall be voluntary.

(2.) Provision shall be made by general rules for the registration without any fee being charged therefor, of every person who shall within one year from the commencement of this Act make application for first registration as owner of land the registration of the ownership of which is by this Act declared to be compulsory.

(3.) Subject to the provisions of this Act all registration which is by this Act declared to be compulsory, and all registration of owners of statutory tenancies on the register of leaseholders shall be made in the proper local office, and all other registration of persons as owners of land under this Act shall be made in such office as shall be prescribed.

23.—(1.) In the case of any land the registration of the ownership of which is by this Act declared to be compulsory—

(a.) Where the sale has been made before the commencement of this Act the Land Commission may at any time, by notice in the prescribed manner, require the owner to register his ownership of the land under this Act, and thereupon, if the owner shall not within the prescribed time make application to be registered accordingly, the Land Commission may make application in the prescribed manner to have the ownership of the land registered under this Act.

(b.) Where the sale is made after the commencement of this Act the Land Commission or the Land Judge, as the case may be, shall forthwith, in order that the purchaser may be registered under this Act as owner of the land, transmit to the registering authority a notice in the prescribed form; and thereupon such registering authority shall, subject to the provisions of this Act and to general rules, proceed to register the purchaser accordingly.

(2.) Provision shall be made by general rules, in the event of the original purchaser having ceased by death or otherwise to be the owner of the land before such registration, for ascertaining the person who has become the owner of the land, and for his being registered under this Act as such.

(3.) For the purpose of any such registration as aforesaid, the registering authority shall have all the same and the like jurisdiction and powers in reference to compelling the disclosure of instruments and facts affecting the title, and in reference to the production of deeds and in reference to all other matters as if the purchaser or other owner, as the case may be, had made an application to be registered as owner of the land under this Act.

24.—(1.) Where it is proposed to sell any land under the provisions of any of the Purchase of Land (Ireland) Acts, and such land

\* The redemption of a fee farm rent under the Redemption of Rent Act, 1891, is a sale of land within the meaning of this section; and registration is compulsory in such cases. In re *Krogh and Kettle* [1896]. 1 I. R. 285.

Landlord selling part of an estate may obtain certificate of title to remainder.

54 & 55 Vic.  
c 66

is held under a title common to other land not proposed to be sold, the Land Commission shall, if so required by the vendor,\* investigate the title to the whole or any part of such last-mentioned land, and shall issue in the prescribed manner a certificate of the title thereto, and in the event of an application being made for first registration by the owner of such last-mentioned land the registering authority may accept such certificate as evidence of the title of the person named therein as owner, as of the date of its execution.

(2.) In any case in which land has been sold to a tenant through the Land Commission, and the title to other land held under a common title has been investigated at the same time by the Land Commission, it shall be lawful for the vendor or his successor in title to apply to the Land Commission to issue to him a certificate in the prescribed form of the title to the vendor to such last-mentioned land, and if the Land Commission are of opinion that such title has been sufficiently investigated, they may, if they think fit, issue such a certificate, and such certificate shall have the same effect in all respects as a certificate issued under the preceding sub-section.

Where registration by ownership compulsory, no title acquired by transfer until registered

25. The following provisions shall apply to all freehold land the registration of the ownership of which is by this Act declared to be compulsory:—

(1.) A person shall not, under any conveyance executed on or after the commencement of this Act, acquire any estate in any such land until he is registered† as owner of the land, but on being so registered his title shall relate back to the date of the execution of the conveyance and any dealings with the land before the registration shall have effect accordingly: Provided that the foregoing provisions shall not apply to the conveyance of any estate expectant on an estate of freehold, whether the estate so expectant be in reversion or in remainder, or to any conveyance by way of mortgage or of transfer of mortgage.

(2.) On the death on or after the commencement of this Act of any owner of such land, when succession duty is paid by or on behalf of any person entitled to be registered as owner of the land or any part thereof, the Commissioners of Inland Revenue shall be entitled, and they are hereby required, to demand payment from such person of the amount of the fee which would be necessary to be paid for the registration of such person as owner of the land, and upon receipt of such payment they shall pay such amount to the central registering authority, and shall signify to such registering authority the name of the person and the land in respect of which the duty was paid, and thereupon such registering authority shall give such person notice that on production of the proper evidence he may be registered as owner of the land without further payment.

\* A lessor or grantor who merely gives a consent to a redemption of rent under the Redemption of Rent Act, 1891, is not a "vendor" within the meaning of this section. *Re Lynch*, 29 I. L. T. R. 99.

† This applies only to conveyances *inter vivos*. There is no enactment which postpones, by reason of non-registration, the operation of a devise by will. *Torrish v. Orr and Smith* [1894] 2 I. R. 381.

A condition of sale precluding a purchaser from objecting by reason of non registration of title is, however, good. *In re Furlong and Bogan's Contract*, 31 L. R. I. 191. (V.C.)

**26.** An application for first registration as an owner of land may be made by such persons and shall, subject to the provisions of this Act, be made in such manner, and subject to such notice, and shall be supported by such examination or evidence of the title to the land, as may be prescribed.

**54 & 55 Vic. c. 66**  
Application for first registration.

**27.** (1.) Subject to the provisions of this Act, every application for registration of a person as owner of land, or of any charge or burden, or of any right affecting, or of any leasehold estate derived out of, registered land shall be made in the office in which the first registration of ownership of the land shall have been made; and the register as regards any such land, charge, burden, right, or estate, shall mean the register kept in the office in which such first registration shall have been made.

Subsequent registration to be made in office of first registration

(2.) Provision may be made by general rules for the transfer of the registration of any land from a local to the central office, or from the central to a local office, on the application of the owner, and with the prescribed consents, and after such transfer has been effected in the prescribed manner the register as regards any such land shall mean the register kept in the office to which registration has been so transferred

**28.** A person may be registered either—

- (1.) As full owner of land, that is to say, as tenant in fee simple thereof; or
- (2.) In the case of settled land, as limited owner of the land, that is to say, as tenant in tail or tenant for life thereof, or as having under the Settled Land Acts, 1882 to 1889, the powers of a tenant for life thereof.

Classes of owners who may be registered

**29.** (*Provisions for general note on the register in regard to burdens arising from previous interest of purchasing tenant*).

**PART IV.**

*Devolution of Interest in Freehold Registered Land sold under Purchase Acts.*

**83.** This part of this Act shall apply to freehold registered land which shall have been at any time sold and conveyed to or vested in a purchaser under any of the provisions of the Purchase of Land (Ireland) Acts, and to no other land. For the purposes of this part of this Act "freehold registered land" includes leasehold registered land which is not of chattel tenure.

Application of Part IV

**84.** (1.) Where any such land is vested in any person without right of survivorship to any other person, it shall, on his death, notwithstanding any testamentary disposition, devolve to and become vested in his personal representatives or representative from time to time as if it were a chattel real vesting in them or him.\*

Devolution of legal interest on death in freehold registered land sold under Purchase Acts

(2.) This section shall apply to any such land over which a person executes by will a general power of appointment as if it were land vested in him solely.

(3.) On the death either of a sole registered full owner or of the survivor of several registered full owners of any such land not

\* See now, also, Land Act, 1896, Sec. 32 (4), *ante*, p. 573, which provides that neither an agreement for purchase under the Land Purchase Acts, nor a vesting order shall operate to convert the interest of the purchaser into real estate.

**54 & 55 Vic.**  
**c 66.** being registered as tenants in common, the personal representatives of the sole owner or survivor shall alone be recognised by the registering authority as having any right in respect of the land, and shall have the same powers of dealing with the land, and any registered dispositions by them shall have the same effect, as if they were the registered owners of the land.

(4) Where any such land is settled by the will of a testator dying after the commencement of this Act and there are no trustees of the settlement, the executors proving the will shall for the purposes of this Act be deemed to be the trustees of the settlement unless and until trustees of the settlement are appointed.

(5) Probate and letters of administration may be granted in respect of such land only, although there is no personal estate.

**44 & 45 Vic.**  
**c 41.**

(6) Section thirty of the Conveyancing and Law of Property Act, 1881, shall not apply to any such land, without prejudice to anything done or any right acquired thereunder.

(7) This section applies only in cases of death after the commencement of this Act.

Succession to  
beneficial  
interest in  
such land on  
intestacy

**85.** (1) On the death of a person intestate as to any such land, the beneficial interest therein shall devolve upon and, subject to the provisions of this Act, be divisible among the same persons as if it were personal estate as to which he had died intestate.

(2) There shall be abolished as regards such land—

(a) All existing rules of law and canons of descent, and of devolution by special occupancy, and

(b) Tenancy by the curtesy; and

(c) Dower.

Provided that a husband or wife married before the passing of this Act, who, but for this section, would have been entitled to tenancy by the curtesy, dower, or other estate or interest, shall, at his or her own option, be entitled to the same in lieu of the interest conferred on him or her by this Section.

(3) This Section applies only in cases of death after the commencement of this Act.

(4) This Section shall not apply to any freehold registered land of any person who is at the commencement of this Act entitled to that real estate, either in possession or in remainder or reversion, and is at that date, and remains thenceforth until his death, incapable, by reason of infancy or of unsoundness of mind, of disposing of that real estate.

Provisions as to  
administration  
of such land.

**86.** (1) Subject to the powers, rights, duties, and liabilities hereinafter mentioned, the personal representatives of a deceased person shall hold such land as trustees for the persons by law beneficially entitled thereto, and those persons shall, subject to the provisions of this Act, have the same power of requiring a transfer thereof as they have of requiring a transfer of personal estate.

(2) All enactments and rules of law relating to the effect of probate or letters of administration as respects chattels real, and as respects the dealing with chattels real before probate or administration, and as respects the payment of costs of administration and other matters in relation to the administration of personal estate, and the powers, rights, duties, and liabilities of personal representatives in respect of personal estate, shall apply to such land so far as



the same are applicable, as if the land were a chattel real vesting in them or him, save that it shall not be lawful for some or one only of several joint personal representatives, without the authority of the court, to sell or transfer such land. 54 & 55 Vic.  
c. 66.

(3.) In the administration of the assets of a person dying after the commencement of this Act, seized of or entitled to any land to which this part of this Act applies, such land shall be administered in the same manner, subject to the same liabilities for debts, costs, and expenses, and with the same incidents as if it were personal estate: provided that nothing herein contained shall alter or affect the order in which real and personal assets respectively are now applicable in or towards the payment of funeral and testamentary expenses, debts, or legacies.

**87.** (1.) At any time after the death of the owner of any such land, his personal representatives may assent, in the prescribed form, to any devise contained in the will of such deceased person, or may transfer the land to any person entitled thereto, as heir, devisee, or otherwise; and may make the assent or transfer, either subject to a charge for the payment of any money which the personal representatives are liable to pay or without any such charge; and on such assent or transfer, subject to a charge for all moneys (if any) which the personal representatives are liable to pay, all liabilities of the personal representatives in respect of the land shall cease, except as to any acts done or contracts entered into by them before such assent or transfer. Provision for  
registration of  
heir or devisee  
of such land.

(2.) At any time after the expiration of one year from the death of the owner of any such land, if his personal representatives have failed on the request of the person entitled to the land to transfer the land to that person, the court may, if it think fit, on the application of that person, and after notice to the personal representatives, order that the person so entitled be registered as owner of the land either solely or jointly with the personal representatives.

(3.) No fee shall be payable on any transfer under this Section by personal representatives to a person beneficially entitled to land.

(4.) The production of an assent by the personal representatives in the prescribed form shall authorise the registering authority to register the person named in such assent as the full owner or limited owner of the land, as the case may be.

**88.** Nothing in this part of this Act shall render any land to which it applies liable to probate duty or legacy duty, or exempt it from succession duty. Liability for  
duty.

**89.** In relation to freehold registered land, to which this part of this Act applies, the following provisions shall have effect:— Meaning of  
"heirs."

(1.) The word "heir" or "heirs" used as a word of limitation in any Act of Parliament, deed, or instrument passed or executed either before or after the commencement of this Act, shall have the same effect as if this Act had not passed.

(2.) The word "heir" or "heirs" used as a word of purchase in any Act of Parliament, deed, or instrument passed or executed before the commencement of this Act shall bear the same meaning as if this Act had not passed.

- 54 & 55 Vic.,  
c. 66.
- (3.) The word "heir" or "heirs" used as a word of purchase in any Act of Parliament, deed, or instrument passed or executed after the commencement of this Act shall, unless a contrary intention appears, be construed to mean the person or persons, other than a creditor, who would be beneficially entitled to the personal estate of the ancestor if the ancestor had died intestate.
- (4.) Subject as aforesaid, references to the heirs of any person in any Act of Parliament, deed, or instrument passed or executed either before or after the commencement of this Act, shall be construed to refer to his personal representatives.

## PUBLIC WORKS LOANS ACT, 1892.

(55 &amp; 56 VIC., CAP. 61.)

55 & 56 Vic.,  
c. 61.

Transfer of  
powers as to  
Irish Reproductive  
Loan Fund  
and Sea and  
Coast Fisheries  
Fund.  
54 & 55 Vic.,  
c. 48.

4.\* Whereas by Section thirty-five of the Purchase of Land (Ireland) Act, 1891, the Irish Reproductive Loan Fund and the Sea and Coast Fisheries Fund, including all moneys due on foot of loans and for interest, dividends and other annual income payable on foot of such funds, save as in that Section mentioned, were placed at the disposal of the Congested Districts Board for Ireland for the purposes of that Act, and it is expedient to confer on that Board the powers and remedies for the recovery of the said moneys possessed by the Commissioners of Public Works in Ireland; therefore, the Congested Districts Board for Ireland shall have and may exercise for the recovery of any money due on foot of loans made by them out of the funds aforesaid or otherwise payable on foot thereof all such powers and remedies as are possessed in that behalf by the Commissioners of Public Works in Ireland, and a certificate under the hand of the secretary to the said Board stating the amount due in respect of any such loan together with interest thereon and any costs and charges in respect of any such loan or the recovery thereof shall have the same effect as a like certificate under the seal of the said Commissioners.

\* This section is included in the Congested Districts Board (Ireland) Acts, as defined by Sec. 4 of the Congested Districts Board Act, 1894, ante, p. 507.

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THE  
**Land Law (Ireland) Act, 1896,**

WITH THE  
RULES AND FORMS

ISSUED THEREUNDER, IN THE LAND COMMISSION,  
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EDITED WITH NOTES,

BY

THE HON. MR. JUSTICE BARTON

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INCLUDING

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THE RULES OF COURT, WITH FORMS AND TABLES.

BY

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Author of "Irish Judicature Practice" and Editor of *The Irish Law Times and  
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AND

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