ANNO VICESIMO SECUNDO

VICTORIÆ REGINÆ.

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C A P. XII.

An Act to make further Provision for the Purchase of Common and other Rights by Her Majesty's Principal Secretary of State for the War Department, and in relation to Land vested in or taken by such Secretary of State. [8th *April* 1859.]

BE it 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 the Authority of the same, as follows:

Powers of 17 & 18 Vict. c. 67. and 18 & 19 Vict. c. 117. extended to Rights of Common, &c. over any Lands the Soil of which is vested in the Secretary of State for War.

I. The Powers now vested in Her Majesty's Principal Secretary of State for the War Department under the Act of the Session holden in the Seventeenth and Eighteenth Years of Her Majesty, Chapter Sixty-seven, and the Act of the Session holden in the Eighteenth and Nineteenth Years of Her Majesty, Chapter One hundred and seventeen, for the Purpose of ascertaining, making, and paying Compensation for and extinguishing all Rights of Common, Commonable and other Rights, in, over, or affecting Lands the Soil of which has been purchased by the principal Officers of Her Majesty's Ordnance under the Act of the Session holden in the Fifth and Sixth Years of Her Majesty, Chapter Ninety-four, or has been or may be purchased

by the said Secretary of State under the last-mentioned Act and the said Act of the Eighteenth and Nineteenth Years of Her Majesty, shall extend to all Rights of Common, Commonable and other Rights, in, over, or affecting any Lands the Soil of which is for the Time being vested in the said Secretary of State on behalf of Her Majesty, and all the Provisions of the said Act of the Seventeenth and Eighteenth Years of Her Majesty shall apply to and in the Case of the Purchase of such Rights as aforesaid in or over any such Lands as last aforesaid in like Manner as such Provisions are applicable to and in the Case of the Purchase of such Rights in or over any Lands purchased as therein mentioned.

Conveyances to the Secretary of State for War of Land in England and Ireland, as in Sched. (A.)

II. Conveyances of Land in *England* and *Ireland* to be purchased by the said Secretary of State may be according to the Form in the Schedule (A.) to this Act, or as near thereto as the Circumstances of the Case admit, and all Conveyances so made shall be effectual to vest the Land thereby conveyed in the said Secretary of State and his Successors, and shall operate to bar and destroy all such Estates Tail, and other Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever of and in the Land comprised in such Conveyances as have been purchased or compensated for by the Consideration given on the Purchase, but this Enactment shall not in anywise interfere with or affect Section Eight of the said Act of the Fifth and Sixth Years of Her Majesty.

Conveyances to the Secretary of State for War of Land in Scotland, as in Sched. (B.)

III. Feus and Conveyances of Lands and Heritages in *Scotland* to be purchased by the said Secretary of State may be according to the Form in the Schedule (B.) to this Act, or as near thereto as the Circumstances of the Case admit, which Feus and Conveyances being duly executed and being registered in the Particular Register of Sasines kept for the County, Burgh, or District in which the Lands and Heritages are locally situated, or in the General Register of Sasines for *Scotland* kept at *Edinburgh*, within Sixty Days from the last Date thereof, which the respective Keepers of the said Registers are hereby authorized and required to do, shall give and constitute a good and undoubted Right, and complete and valid feudal Title in all Time coming, to the said Secretary of State and his Successors, to the Lands and Heritages therein described or referred to and intended to be thereby conveyed, any Law or Custom to the contrary notwithstanding: Provided always, that it shall not be necessary for the said Secretary of State to record in any Register of Sasines any Feus or Conveyances in their Favour which shall contain a Procuratory of Resignation or Precept of Sasine, or which may be completed by Infeftment; and the Title of the said Secretary of State under such last-mentioned Feus or Conveyances shall be regulated by the ordinary

nary Law of *Scotland* until the said Feus or Conveyances or the Instruments of Sasine thereon shall have been recorded in a Register of Sasines; provided also, that the Rights and Titles to be granted in manner herein mentioned in and to any Lands and Heritages in *Scotland* shall, unless otherwise specially provided for, in nowise affect or diminish the Right of Superiority in the same, which shall remain entire in the Person granting such Rights and Titles; but in the event of such Lands and Heritages being a Part or Portion of other Lands and Heritages held by the same Owner under the same Titles, the said Secretary of State, his Successors and Assigns, shall not be liable for any Feu Duties or Casualties to the Superiors thereof, or be bound to enter with the said Superiors.

Provision as to Erections on Lands taken compulsorily.

IV. The Proviso at the End of Section Nineteen of the said Act of the Fifth and Sixth Years of Her Majesty shall not extend to prevent the Erection of Barracks on any Lands taken as therein mentioned, and being within any Fortress or Garrison Town or appurtenant to any Fortification, or to prevent any Buildings on any such Lands being used as or for Barracks.

Recovery of Possession of Land in England from Tenants.

1 & 2 Vict. c. 74.

19 & 20 Vict. c. 108.

V. Where any Lease or Agreement of or concerning Land in *England* vested in the said Secretary of State on behalf of Her Majesty is determined by Expiration, Notice, or Forfeiture (except for Nonpayment of Rent), Possession of such Land may be recovered by or on behalf of the said Secretary of State under the Act of the Session holden in the First and Second Years of Her Majesty, Chapter Seventy-four, as in Cases therein provided, for although the Term or Interest of the Lessee or Tenant may have exceeded Seven Years, and the Rent may have exceeded the Rate of Twenty Pounds a Year, or such Possession may be recovered with Rent or Mesne Profits, or both, under the Act of the Session holden in the Nineteenth and Twentieth Years of Her Majesty, Chapter One hundred and eight, as in Cases provided for in Section Fifty of such Act, and other Provisions auxiliary thereto, although the Value of the Premises and the Rent which may have been payable in respect thereof may have exceeded Fifty Pounds by the Year; and in proceeding under the said Act of First and Second Years of Her Majesty for Recovery of Possession of any Land which may have been holden under any such Lease or Agreement as aforesaid, the Notice of Intention to apply to Justices to recover Possession may require such Possession to be given on or before the Expiration of Seven clear Days from the Service of the Notice, and the Form of Notice shall be varied accordingly; and the Justices by the said Act authorized to issue a Warrant for giving Possession of the Premises may by such Warrant authorize the Entry and Delivery of Possession of the Premises, either forthwith, or on or before

before such Day as the Justices may think fit to name; and in proceeding under the said Act of the Nineteenth and Twentieth Years of Her Majesty for the Recovery of Possession as aforesaid it shall not be necessary to prove the yearly Value and Rent as thereby required.

Recovery of Possession of Land in Ireland from Tenants.

VI. When any Lease or Agreement of or concerning Land in *Ireland* vested in the said Secretary of State on behalf of Her Majesty is determined by Expiration, Notice, or Forfeiture (except for Non-payment of Rent), Possession of such Land may be recovered by or on behalf of the said Secretary of State either as provided by Section Seventy-two of the Act of the Session holden in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-seven, in the Case of Lands holden by a Tenant at a Rent not exceeding Fifty Pounds *per Annum*, and the Tenant's Interest wherein is determined, notwithstanding the Rent payable under such Lease or Agreement may exceed that Amount, and the Provisions of the said Act shall be applicable accordingly, or as provided by Section Fifteen of "The "Summary Jurisdiction (*Ireland*) Act, 1851," for the Recovery of Possession of Houses in certain Towns and Villages; and such last-mentioned Provision shall be applicable in all Cases to the Recovery of Land in *Ireland* holden under any such Lease or Agreement as aforesaid where such Lease or Agreement is determined as aforesaid, wherever such Land may be situate, and at and for whatever Rent and Term the same may be holden; and notwithstanding anything to the contrary in the said Provision, the Justices authorized to issue a Warrant for giving Possession may by such Warrant authorize such Possession to be given forthwith, or on or before such Day as the Justices may think fit to name, and may, if they think fit, issue such Warrant notwithstanding the Tenant may be willing to give such Undertaking as therein mentioned.

14 & 15 Vict. c. 57.

14 & 15 Vict. c. 92. s. 15.

Nothing to lessen Powers of Secretary of State for War.

VII. Nothing in this Act shall extend to take away, lessen, or prejudice any Powers, Rights, or Authorities which would or might have been vested in or exercised by the said Secretary of State if this Act had not been passed.

Construction of "Secretary of State."

VIII. In the Construction of this Act the Style or Title "Her Majesty's Principal Secretary of State for the War Department," and any Expression referring to such Secretary of State, shall mean Her Majesty's Principal Secretary of State for the Time being to whom Her Majesty shall think fit to intrust the Seals of the War Department.

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SCHEDULE (A.)

Form of Conveyance.

I of in consideration of the Sum of paid to me by Her Majesty's Principal Secretary of State for the War Department, do hereby convey to the said Secretary of State, and his Successors, all the Lands and Hereditaments set forth in the Schedule hereto, together with all Ways, Rights, and Appurtenances thereto belonging, and all such Estate, Right, Title, and Interest in and to the same as I am or shall become seised or possessed of, or am by Law empowered to convey, to hold the Premises to the said Secretary of State and his Successors for ever on behalf of Her Majesty.

In witness whereof I have hereunto set my Hand and Seal, the day of in the Year of our Lord .

The Schedule:

SCHEDULE (B.)

Form of Conveyance.

I of in consideration of the Sum of Pounds paid to me by Her Majesty's Principal Secretary of State for the War Department, do hereby sell, alienate, dispone, convey, assign, and make over from me, my Heirs and Successors, to the said Secretary of State, and his Successors for ever, all the Lands and Heritages set forth in the Schedule hereto, together with all Rights and Pertinents thereto belonging, and all such Right, Title, and Interest in and to the same as I and my aforesaids are or shall become possessed of or are empowered to convey [*here insert*

the Condition (if any) of the Conveyance, and a Registration Clause for Preservation and Diligence, and a testing Clause, according to the Form of the Law in Scotland].

The Schedule:

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1859.