

ANNO TERTIO & QUARTO

GULIELMI IV. REGIS.

****

CAP. LXXIV.

An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance. [28th *August* 1833.]

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 in the Construction of this Act the Word "Lands" shall extend to Manors, Advowsons, Rectories, Messuages, Lands, Tenements, Tithes, Rents, and Hereditaments of any Tenure (except Copy of Court Roll), and whether corporeal or incorporeal, and any undivided Share thereof, but when accompanied by some Expression including or denoting the Tenure by Copy of Court Roll, shall extend to Manors, Messuages, Lands, Tenements, and Hereditaments of that Tenure, and any undivided Share thereof; and the Word "Estate" shall extend to an Estate in Equity as well as at Law, and shall also extend to any Interest, Charge, Lien, or Incumbrance in, upon, or affecting Lands, either at Law or in Equity, and shall also extend to any Interest, Charge, Lien, or Incumbrance in, upon, or affecting Money subject to be invested in the Purchase of Lands; and the Expression "Base Fee" shall mean exclusively that Estate in Fee Simple into which an Estate Tail is converted where the Issue in Tail are barred, but Persons claiming Estates by way of Remainder or otherwise are not barred; and the Expression "Estate Tail," in addition to its usual Meaning, shall mean a Base Fee into which an Estate Tail shall have been converted; and the Expression "actual Tenant in Tail" shall mean exclusively the Tenant of an Estate

Meaning of certain Words and Expressions "Lands."

"Estate."

"Base Fee."

"Estate Tail."

"Actual Tenant in Tail."

Estate Tail which shall not have been barred, and such Tenant shall be deemed an actual Tenant in Tail, although the Estate Tail may have been divested or turned to a Right; and the Expression "Tenant in Tail" shall mean not only an actual Tenant in Tail, but also a Person who, where an Estate Tail shall have been barred and converted into a Base Fee, would have been Tenant of such Estate Tail if the same had not been barred; and the Expression "Tenant in Tail entitled to a Base Fee" shall mean a Person entitled to a Base Fee, or to the ultimate beneficial Interest in a Base Fee, and who, if the Base Fee had not been created, would have been actual Tenant in Tail; and the Expression "Money subject to be invested in the Purchase of Lands" shall include Money, whether raised or to be raised, and whether the Amount thereof be or be not ascertained, and shall extend to Stocks and Funds, and Real and other Securities, the Produce of which is directed to be invested in the Purchase of Lands, and the Lands to be purchased with such Money or Produce shall extend to Lands held by Copy of Court Roll, and also to Lands of any Tenure, in *Ireland* or elsewhere out of *England*, where such Lands or any of them are within the Scope or Meaning of the Trust or Power directing or authorizing the Purchase; and the Word "Person" shall extend to a Body Politic, Corporate, or Collegiate, as well as an Individual; and every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as one Person or Thing; and every Word importing the Plural Number shall extend and be applied to one Person or Thing as well as several Persons or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male; and every Assurance already made or hereafter to be made, whether by Deed, Will, Private Act of Parliament, or otherwise, by which Lands are or shall be entailed, or agreed or directed to be entailed, shall be deemed a Settlement; and every Appointment made in exercise of any Power contained in any Settlement, or of any other Power arising out of the Power contained in any Settlement, shall be considered as Part of such Settlement, and the Estate created by such Appointment shall be considered as having been created by such Settlement; and where any such Settlement is or shall be made by Will, the Time of the Death of the Testator shall be considered the Time when such Settlement was made: Provided always, that those Words and Expressions occurring in this Clause, to which more than One Meaning is to be attached, shall not have the different Meanings given to them by this Clause in those Cases in which there is any thing in the Subject or Context repugnant to such Construction.

"Tenant in Tail."

"Tenant in Tail entitled to a Base Fee."

"Money."

"Person." Number and Gender.

Settlement.

No Fine or Recovery to be levied or suffered after the 31st of Dec. 1833.

II. And be it further enacted, That after the Thirty-first Day of *December* One thousand eight hundred and thirty-three no Fine shall be levied or Common Recovery suffered of Lands of any Tenure, except where Parties intending to levy a Fine or suffer a Common Recovery shall, on or before the Thirty-first Day of *December* One thousand eight hundred and thirty-three, have sued out a Writ of Dedimus, or any other Writ, in the regular Proceedings of such Fine or Recovery; and any Fine or Common Recovery which shall be levied or suffered contrary to this Provision shall be absolutely void.

III. And

Persons liable after 31st Dec. 1833 to levy Fines or suffer Recoveries under Covenants to effect the Purposes intended by means of this Act; but in any case where the Purpose of a Fine or Recovery cannot be so effected the Persons liable to levy Fines or suffer Recoveries shall execute a Deed which shall have the same Operation as the Fine or Recovery.

III. And be it further enacted, That in case any Person shall, after the Thirty-first Day of *December* One thousand eight hundred and thirty-three, be liable to levy a Fine or suffer a Common Recovery of Lands of any Tenure, or to procure some other Person to levy a Fine or suffer a Common Recovery of Lands of any Tenure, under a Covenant or Agreement already entered into or hereafter to be entered into, before the First Day of *January* One thousand eight hundred and thirty-four, then and in such Case, if all the Purposes intended to be effected by such Fine or Recovery can be effected by a Disposition under this Act, the Person liable to levy such Fine or suffer such Recovery, or to procure some other Person to levy such Fine or suffer such Recovery, shall, after the Thirty-first Day of *December* One thousand eight hundred and thirty-three, be subject and liable under such Covenant or Agreement to make or to procure to be made such a Disposition under this Act as will effect all the Purposes intended to be effected by such Fine or Recovery; but if some only of the Purposes intended to be effected by such Fine or Recovery can be effected by a Disposition under this Act, then the Person so liable to levy such Fine or suffer such Recovery, or to procure some other Person to levy such Fine or suffer such Recovery as aforesaid, shall, after the Thirty-first Day of *December* One thousand eight hundred and thirty-three, be subject and liable under such Covenant or Agreement to make or procure to be made such a Disposition under this Act as will effect such of the Purposes intended to be effected by such Fine or Recovery as can be effected by a Disposition under this Act; and in those Cases where the Purposes intended to be effected by such Fine or Recovery or any of them cannot be effected by any Disposition under this Act, then the Person so liable to levy such Fine or suffer such Recovery, or to procure some other Person to levy such Fine or suffer such Recovery as aforesaid, shall, after the Thirty-first Day of *December* One thousand eight hundred and thirty-three, be liable under such Covenant or Agreement to execute or to procure to be executed some Deed whereby the Person intended to levy such Fine or suffer such Recovery shall declare his Desire that such Deed shall have the same Operation and Effect as such Fine or Recovery would have had if the same had been actually levied or suffered; and the Deed by which such Declaration shall be made shall, if none of the Purposes intended to be effected by such Fine or Recovery can be effected by a Disposition under this Act, have the same Operation and Effect in every respect as such Fine or Recovery would have had if the same had been actually levied or suffered; but if some only of the Purposes intended to be effected by such Fine or Recovery can be effected by a Disposition under this Act, then the Deed by which such Declaration shall be made shall, so far as the Purposes intended to be effected by such Fine or Recovery cannot be effected by a Disposition under this Act, have the same Operation and Effect in every respect as such Fine or Recovery would have had if the same had been actually levied or suffered.

Fines and Recoveries of Lands in Ancient Demesne, when

IV. And be it further enacted, That no Fine already levied in a superior Court of Lands of the Tenure of Ancient Demesne which hath not been reversed, and no Fine hereafter to be levied of Lands of that Tenure, shall, upon a Writ of Deceit already brought by the Lord

levied or suffered in a superior Court, may be reversed as to the Lord by Writs of Deceit, the Proceedings in which are now pending, or by Writs of Deceit hereafter to be brought, but shall be as valid against the Parties thereto, and Persons claiming under them, as if not reversed as to the Lord.

Lord of the Manor of which the Lands were Parcel, the Proceedings in which are now pending, or upon a Writ of Deceit which at any Time after the passing of this Act may be brought by the Lord of the said Manor, be reversed as to any Person except the Lord of the said Manor; and the Court shall order such Fine to be vacated only as to the Lord of the said Manor; and every such Fine which may be reversed as to the Lord of the said Manor upon such Writ of Deceit as aforesaid shall still remain as good and valid against and as binding upon the Conusors thereof, and all Persons claiming under them, as such Fine would have been if the same had not been reversed by such Writ of Deceit as aforesaid; and no Common Recovery already suffered in a superior Court of Lands of the Tenure of Ancient Demesne which hath not been reversed, and no Common Recovery hereafter to be suffered of Lands of that Tenure, shall, upon a Writ of Deceit already brought by the Lord of the Manor of which the Lands were Parcel, the Proceedings in which are now pending, or upon a Writ of Deceit which at any Time after the passing of this Act may be brought by the Lord of the said Manor, be reversed as to any Person except the Lord of the said Manor; and the Court shall order such Recovery to be vacated only as to the Lord of the said Manor; and every such Recovery which may be reversed as to the Lord of the said Manor upon such Writ of Deceit as aforesaid shall still remain as good and valid against and as binding upon the Vouchees therein, and all Persons claiming under them, as such Recovery would have been if the same had not been reversed by such Writ of Deceit as aforesaid.

Fines and Recoveries of Lands in Ancient Demesne levied or suffered in the Manor Court, after other Fines and Recoveries in a superior Court, shall be as valid as if the Tenure had not been changed.

V. And be it further enacted, That if at any Time before or after the passing of this Act a Fine or Common Recovery shall have been levied or suffered, or shall be levied or suffered in a superior Court, of Lands of the Tenure of Ancient Demesne, and subsequently to the levying or suffering thereof a Fine or Common Recovery shall have been or shall be levied or suffered of the same Lands in the Court of the Lord of the Manor of which the Lands had been previously Parcel, and the Fine or Common Recovery levied or suffered in such superior Court shall not have been reversed previously to the levying of the Fine or the suffering of the Common Recovery in the Lord's Court, then and in every such Case the Fine or Common Recovery levied or suffered in the Lord's Court shall, notwithstanding the Alteration or Change of the Tenure by the Fine or Common Recovery previously levied or suffered in the superior Court, be as good, valid, and binding as the same would have been if the Tenure had not been altered or changed; and that in every other Case where any Fine or Common Recovery shall at any Time before the passing of this Act have been levied or suffered in a Court whose Jurisdiction does not extend to the Lands of which such Fine or Recovery shall have been levied or suffered, such Fine or Recovery shall not be invalid in consequence of its having been levied or suffered in such Court, and such Court shall be deemed a Court of sufficient Jurisdiction for all the Purposes of such Fine or Recovery; and in every other Case where Persons shall have assumed to hold Courts in which Fines or Common Recoveries have been levied or suffered, and such Courts shall be unlawful or held without due Authority, the Fines or Common Recoveries which at any Time before the passing of this

Fines and Recoveries shall not be invalid in other Cases, though levied or suffered in Courts whose Jurisdictions may not extend to the Lands therein comprised.

Act may have been levied or suffered in such unlawful or unauthorized Courts shall not be invalid in consequence of their having been levied or suffered therein, and such Courts shall be deemed Courts of sufficient Jurisdiction for all the Purposes of such Fines or Recoveries.

Tenure of Ancient Demesne, where suspended or destroyed by Fine or Recovery in a superior Court, restored in Cases in which the Rights of the Lord of the Manor shall have been recognized within 20 Years.

VI. And be it further enacted, That in every Case in which at any Time, either before or after the passing of this Act, the Tenure or Ancient Demesne has been or shall be suspended or destroyed by the levying of a Fine, or the suffering of a Common Recovery of Lands of that Tenure in a superior Court, and the Lord of the Manor of which the Lands at the Time of levying such Fine or suffering such Recovery were Parcel shall not reverse the same before the First Day of *January* One thousand eight hundred and thirty-four, and shall not by any Law in force on the first Day of this Session of Parliament be barred of his Right to reverse the same, such Lands, provided within the last Twenty Years immediately preceding the First Day of *January* One thousand eight hundred and thirty-four the Rights of the Lord of the Manor of which they shall have been Parcel shall in any Manner have been acknowledged or recognized as to the same Lands, shall, from the said First Day of *January* One thousand eight hundred and thirty-four, again become Parcel of the said Manor, and be subject to the same Heriots, Rents, and Services as they would have been subject to if such Fine or Recovery had not been levied or suffered; and no Writ of Deceit for the Reversal of any Fine or Common Recovery shall be brought after the Thirty-first Day of *December* One thousand eight hundred and thirty-three.

Fines made valid without Amendment.

VII. And be it further enacted, That if it shall be apparent, from the Deed declaring the Uses of any Fine already levied or hereafter to be levied, that there is in the Indentures, Record, or any of the Proceedings of such Fine any Error in the Name of the Conusor or Conusee of such Fine, or any Misdescription or Omission of Lands intended to have been passed by such Fine, then and in every such Case the Fine, without any Amendment of the Indentures, Record, or Proceedings in which such Error, Misdescription, or Omission shall have occurred, shall be as good and valid as the same would have been, and shall be held to have passed all the Lands intended to have been passed thereby, in the same Manner as it would have done if there had been no such Error, Misdescription, or Omission.

Recoveries made valid without Amendment.

VIII. And be it further enacted, That if it shall be apparent, from the Deed making the Tenant to the Writ of Entry or other Writ for suffering a Common Recovery already suffered or hereafter to be suffered, that there is in the Exemplification, Record, or any of the Proceedings of such Recovery any Error in the Name of the Tenant, Demandant, or Vouchee in such Recovery, or any Misdescription or Omission of Lands intended to have been passed by such Recovery, then and in every such Case the Recovery, without any Amendment of the Exemplification, Record, or Proceedings in which such Error, Misdescription, or Omission shall have occurred, shall be as good and valid as the same would have been, and shall be held to have passed all the Lands intended to have been passed thereby, in the same

Manner as it would have done if there had been no such Error, Misdescription, or Omission.

Saving Jurisdiction in Cases not provided for.

IX. Provided always, and be it further enacted, That nothing in this Act contained shall lessen or take away the Jurisdiction of any Court to amend any Fine or Common Recovery, or any Proceeding therein, in Cases not provided for by this Act.

Recoveries made valid in certain Cases where Bargain and Sale is not duly inrolled.

X. And be it further enacted, That no Common Recovery already suffered or hereafter to be suffered shall be invalid in consequence of the Neglect to inrol in due Time a Bargain and Sale purporting to make the Tenant to the Writ of Entry or other Writ for suffering such Recovery, provided such Recovery would have been valid if the Bargain and Sale purporting to make the Tenant to the Writ had been duly inrolled.

Recoveries invalid in consequence of there not being proper Tenants to the Writs of Entry made valid in certain Cases.

XI. And be it further enacted, That no Common Recovery already suffered or hereafter to be suffered shall be invalid in consequence of any Person in whom an Estate at Law was outstanding having omitted to make the Tenant to the Writ of Entry or other Writ for suffering such Recovery, provided the Person who was the Owner of or had Power to dispose of an Estate in possession, not being less than an Estate for a Life or Lives in the whole of the Rents and Profits of the Lands in which such Estate at Law was outstanding, or the ultimate Surplus of such Rents and Profits after Payment of any Charges thereout, and whether any Surplus after Payment of such Charges shall actually remain or not, shall, within the Time limited for making the Tenant to the Writ for suffering such Recovery, have conveyed or disposed of such Estate in possession to the Tenant to such Writ; and an Estate shall be deemed to be an Estate in possession, notwithstanding there shall be subsisting prior thereto any Lease for Lives or Years, absolute or determinable, upon which a Rent is reserved, or any Term of Years upon which no Rent is reserved.

Certain Cases in which Fines and Recoveries shall not be made valid by this Act.

XII. Provided always, and be it further enacted, That where any Fine or Common Recovery shall before the passing of this Act have been wholly reversed, such Fine or Recovery shall not be rendered valid by this Act; and where any Fine or Common Recovery shall before the passing of this Act have been reversed as to some only of the Parties thereto, or as to some only of the Lands therein comprised, such Fine or Recovery shall not be rendered valid by this Act so far as the same shall have been reversed; and where any Person who would have been barred by any Fine or Common Recovery if valid shall before the passing of this Act have had any Dealings with the Lands comprised in such Fine or Recovery on the Faith of the same being invalid, such Fine or Recovery shall not be rendered valid by this Act; and this Act shall not render valid any Fine or Common Recovery as to Lands of which any Person shall at the Time of the passing of this Act be in possession in respect of any Estate which the Fine or Common Recovery, if valid, would have barred, nor any Fine or Common Recovery which, before the passing of this Act, any Court of competent Jurisdiction shall have refused to amend; nor shall this Act prejudice or affect any Proceedings at

Law or in Equity, pending at the Time of the passing of this Act, in which the Validity of such Fine or Recovery shall be in question between the Party claiming under such Fine or Recovery and the Party claiming adversely thereto; and such Fine or Recovery, if the Result of such Proceedings shall be to invalidate the same, shall not be rendered valid by this Act; and if such Proceedings shall abate or become defective in consequence of the Death of the Party claiming under or adversely to such Fine or Recovery, any Person who but for this Act would have a Right of Action or Suit by reason of the Invalidity of such Fine or Recovery shall retain such Right, so that he commence Proceedings within Six Calendar Months after the Death of such Party.

As to the Records of Fines and Recoveries in the Courts of Common Pleas at Westminster and Lancaster, and the Court of Pleas at Durham, after the 31st of Dec. 1833.

XIII. And be it further enacted, That after the Thirty-first Day of *December* One thousand eight hundred and thirty-three the Records of all Fines and Common Recoveries levied and suffered in His Majesty's Court of Common Pleas at *Westminster*, and all the Proceedings thereof, shall be deposited in such Places and kept by such Persons as the said Court of Common Pleas shall from Time to Time order or direct; and the Records of all Fines and Common Recoveries levied and suffered in His Majesty's Court of Common Pleas at *Lancaster*, and all the Proceedings thereof, shall be deposited in such Places and kept by such Persons as His Majesty's Justices of Assize for the County Palatine of *Lancaster* for the Time being shall from Time to Time order or direct; and the Records of all Fines and Common Recoveries levied and suffered in the Court of Pleas of the County Palatine of *Durham*, and all the Proceedings thereof, shall be deposited in such Places and kept by such Persons as the said Court of Pleas shall from Time to Time order or direct; and in the meantime the said Records and Proceedings shall remain in the same Places respectively where they are now deposited, and be kept by the respective Persons who would have continued entitled to the Custody thereof if this Act had not been passed; and while the said Records and Proceedings respectively shall be kept by such Persons respectively, Searches may be made and Extracts and Copies obtained as heretofore, and on paying the accustomed Fees; and when any of the Records and Proceedings shall, by the Order of the Court or Justices having the Control over the same, be kept by any other Person, then, so far as relates to the Records and Proceedings in the Custody of such other Person, Searches may be made and Extracts or Copies obtained at such Times and on paying such Fees as shall from Time to Time be ordered by the Court or Justices having the Control over the same; and the Extracts or Copies so obtained shall be as available in Evidence as they would have been if obtained from the Person whose Duty it would have been to have made and delivered out the same if this Act had not been passed.

Estates Tail, and Estates expectant thereon, no longer barrable by Warranty.

XIV. And be it further enacted, That all Warranties of Lands which after the Thirty-first Day of *December* One thousand eight hundred and thirty-three shall be made or entered into by any Tenant in Tail thereof shall be absolutely void against the Issue in Tail, and all Persons whose Estates are to take effect after the Determination or in defeasance of the Estate Tail.

XV. And

Power, after the 31st of Dec. 1833, to dispose of Lands entailed in Fee Simple or for a less Estate, saving the Rights of certain Persons.

XV. And be it further enacted, That after the Thirty-first Day of *December* One thousand eight hundred and thirty-three every actual Tenant in Tail, whether in Possession, Remainder, Contingency, or otherwise, shall have full Power to dispose of for an Estate in Fee Simple absolute, or for any less Estate, the Lands entailed, as against all Persons claiming the Lands entailed by force of any Estate Tail which shall be vested in or might be claimed by, or which but for some previous Act would have been vested in or might have been claimed by, the Person making the Disposition, at the Time of his making the same, and also as against all Persons, including the King's most Excellent Majesty, His Heirs and Successors, whose Estates are to take effect after the Determination or in defeasance of any such Estate Tail; saving always the Rights of all Persons in respect of Estates prior to the Estate Tail in respect of which such Disposition shall be made, and the Rights of all other Persons, except those against whom such Disposition is by this Act authorized to be made.

Power of Disposition not to be exercised by Women Tenants in Tail ex Provisione Viri, under 11 H. 7. c. 20. except with Assent.

XVI. Provided always, and be it further enacted, That where, under any Settlement made before the passing of this Act, any Woman shall be Tenant in Tail of Lands within the Provisions of an Act passed in the Eleventh Year of the Reign of His Majesty King *Henry* the Seventh, intituled *Certain Alienations made by the Wife of the Lands of her deceased Husband shall be void*, the Power of Disposition herein-before contained as to such Lands shall not be exercised by her except with such Assent as, if this Act had not been passed, would, under the Provisions of the said Act of King *Henry* the Seventh, have rendered valid a Fine or Common Recovery levied or suffered by her of such Lands.

Except as to Lands in Settlements before this Act, the Act 11 H. 7. c. 20. repealed.

XVII. Provided always, and be it further enacted, That, except as to Lands comprised in any Settlement made before the passing of this Act, the said Act of the Eleventh Year of the Reign of His Majesty King *Henry* the Seventh shall be and the same is hereby repealed.

The Power of Disposition not to extend to certain Tenants in Tail.

XVIII. Provided always, and be it further enacted, That the Power of Disposition herein-before contained shall not extend to Tenants of Estates Tail who, by an Act passed in the Thirty-fourth and Thirty-fifth Years of the Reign of His Majesty King *Henry* the Eighth, intituled *An Act to embar feigned Recovery of Lands wherein the King is in Reversion*, or by any other Act, are restrained from barring their Estates Tail, or to Tenants in Tail after Possibility of Issue extinct.

Power, after the 31st of Dec. 1833, to enlarge Base Fees; saving the Rights of certain Persons.

XIX. And be it further enacted, That after the Thirty-first Day of *December* One thousand eight hundred and thirty-three, in every Case in which an Estate Tail in any Lands shall have been barred and converted into a Base Fee, either before or on or after that Day, the Person who, if such Estate Tail had not been barred, would have been actual Tenant in Tail of the same Lands, shall have full Power to dispose of such Lands as against all Persons, including the King's most Excellent Majesty, His Heirs and Successors, whose Estates

are

are to take effect after the Determination or in defeasance of the Base Fee into which the Estate Tail shall have been converted, so as to enlarge the Base Fee into a Fee Simple absolute; saving always the Rights of all Persons in respect of Estates prior to the Estate Tail which shall have been converted into a Base Fee, and the Rights of all other Persons, except those against whom such Disposition is by this Act authorized to be made.

Issue inheritable not to bar Expectancies.

XX. Provided always, and be it further enacted, That nothing in this Act contained shall enable any Person to dispose of any Lands entailed in respect of any expectant Interest which he may have as Issue inheritable to any Estate Tail therein.

Extent of the Estate created by a Tenant in Tail by way of Mortgage, or for any other limited Purpose.

XXI. Provided always, and be it further enacted, That if a Tenant in Tail of Lands shall make a Disposition of the same, under this Act, by way of Mortgage, or for any other limited Purpose, then and in such Case such Disposition shall, to the Extent of the Estate thereby created, be an absolute Bar in Equity as well as at Law to all Persons as against whom such Disposition is by this Act authorized to be made, notwithstanding any Intention to the contrary may be expressed or implied in the Deed by which the Disposition may be effected: Provided always, that if the Estate created by such Disposition shall be only an Estate pour autre vie, or for Years absolute or determinable, or if, by a Disposition under this Act by a Tenant in Tail of Lands, an Interest, Charge, Lien, or Incumbrance shall be created without a Term of Years absolute or determinable, or any greater Estate, for securing or raising the same, then such Disposition shall in Equity be a Bar only so far as may be necessary to give full Effect to the Mortgage, or to such other limited Purpose, or to such Interest, Lien, Charge, or Incumbrance, notwithstanding any Intention to the contrary may be expressed or implied in the Deed by which the Disposition may be effected.

The Owner of the first existing Estate under a Settlement, prior to an Estate Tail under the same Settlement, to be the Protector of the Settlement.

XXII. And be it further enacted, That if at the Time when there shall be a Tenant in Tail of Lands under a Settlement, there shall be subsisting in the same Lands or any of them, under the same Settlement, any Estate for Years determinable on the dropping of a Life or Lives, or any greater Estate (not being an Estate for Years), prior to the Estate Tail, then the Person who shall be the Owner of the prior Estate, or the first of such prior Estates if more than One, then subsisting under the same Settlement, or who would have been so if no absolute Disposition thereof had been made, (the first of such prior Estates, if more than One, being for all the Purposes of this Act deemed the prior Estate,) shall be the Protector of the Settlement so far as regards the Lands in which such prior Estate shall be subsisting, and shall for all the Purposes of this Act be deemed the Owner of such prior Estate, although the same may have been charged or incumbered either by the Owner thereof or by the Settlor, or otherwise howsoever, and although the whole of the Rents and Profits be exhausted or required for the Payment of the Charges and Incumbrances on such prior Estate, and although such prior Estate may have been absolutely disposed of by the Owner thereof, or by or in consequence of the Bankruptcy or Insolvency of

such Owner, or by any other Act or Default of such Owner; and that an Estate by the Curtesy, in respect of the Estate Tail, or of any prior Estate created by the same Settlement, shall be deemed a prior Estate under the same Settlement within the Meaning of this Clause; and that an Estate by way of resulting Use or Trust to or for the Settlor shall be deemed an Estate under the same Settlement within the Meaning of this Clause.

Each of Two or more Owners of a prior Estate to be the sole Protector as to his Share.

XXIII. Provided always, and be it further enacted, That where Two or more Persons shall be Owners, under a Settlement within the Meaning of this Act, of a prior Estate, the sole Owner of which Estate, if there had been only One, would in respect thereof have been the Protector of such Settlement, each of such Persons, in respect of such undivided Share as he could dispose of, shall for all the Purposes of this Act be deemed the Owner of a prior Estate, and shall, in exclusion of the other or others of them, be the sole Protector of such Settlement to the Extent of such undivided Share.

Where a married Woman alone shall be the Protector, and where she and her Husband together shall be Protector.

XXIV. Provided always, and be it further enacted, That where a married Woman would, if single, be the Protector of a Settlement in respect of a prior Estate, which is not thereby settled, or agreed or directed to be settled, to her separate Use, she and her Husband together shall in respect of such Estate be the Protector of such Settlement, and shall be deemed One Owner; but if such prior Estate shall by such Settlement have been settled, or agreed or directed to be settled, to her separate Use, then and in such Case she alone shall in respect of such Estate be the Protector of such Settlement.

As to Estates confirmed or restored by Settlement.

XXV. Provided always, and be it further enacted, That, except in the Case of a Lease herein-after provided for, where an Estate shall be limited by a Settlement by way of Confirmation, or where the Settlement shall merely have the Effect of restoring an Estate, in *either of those* Cases such Estate shall for the Purposes of this Act, so far as regards the Protector of the Settlement, be deemed an Estate subsisting under such Settlement.

As to Leases at Rent created by Settlement.

XXVI. Provided always, and be it further enacted, That where a Lease at a Rent shall be created or confirmed by a Settlement, the Person in whose Favour such Lease shall be created or confirmed shall not in respect thereof be the Protector of such Settlement.

No Tenant in Dower, Heir, Executor, &c. to be Protector, except in the Case of a bare Trustee.

XXVII. Provided always, and be it further enacted, That no Woman in respect of her Dower, and (except in the Case herein-after provided for of a bare Trustee under a Settlement made on or before the Thirty-first Day of *December* One thousand eight hundred and thirty-three) no bare Trustee, Heir, Executor, Administrator, or Assign, in respect of any Estate taken by him as such bare Trustee, Heir, Executor, Administrator, or Assign, shall be the Protector of a Settlement.

Who shall be the Protector where the

XXVIII. Provided always, and be it further enacted, That where under any Settlement there shall be more than One Estate prior to

an Estate Tail, and the Person who shall be the Owner within the Meaning of this Act of any such prior Estate, in respect of which but for the Two last preceding Clauses, or either of them, he would have been the Protector of the Settlement, shall by virtue of such Clauses, or either of them, be excluded from being the Protector, then and in such Case the Person (if any) who if such Estate did not exist would be the Protector of the Settlement shall be such Protector.

Owner of the prior Estate shall, by the Two last Clauses, be excluded.

XXIX. Provided always, and be it further enacted, That where already, or on or before the Thirty-first Day of *December* One thousand eight hundred and thirty-three, an Estate under a Settlement shall have been disposed of either absolutely or otherwise, and either for valuable Consideration or not, the Person who in respect of such Estate would, if this Act had not been passed, have been the proper Person to have made the Tenant to the Writ of Entry or other Writ for suffering a Common Recovery of the Lands entailed by such Settlement, shall, during the Continuance of the Estate which conferred the Right to make the Tenant to such Writ of Entry or other Writ, be the Protector of such Settlement.

Where, in the Disposition of an Estate before the 31st Dec. 1833, the Person to make the Tenant to the Writ of Entry in a Recovery shall be the Protector.

XXX. Provided always, and be it further enacted, That where any Person having either already, or on or before the Thirty-first Day of *December* One thousand eight hundred and thirty-three, either for valuable Consideration or not, disposed of, either absolutely or otherwise, a Remainder or Reversion in Fee in any Lands, or created any Estate out of such Remainder or Reversion, would under this Act, if this Clause had not been inserted, have been the Protector of the Settlement by which the Lands were entailed in which such Remainder or Reversion may be subsisting, and thereby be enabled to concur in the barring of such Remainder or Reversion, which he could not have done if he had not become such Protector, then and in every such Case the Person who, if this Act had not been passed, would have been the proper Person to have made the Tenant to the Writ of Entry or other Writ for suffering a Common Recovery of such Lands, shall, during the Continuance of the Estate which conferred the Right to make the Tenant to such Writ of Entry or other Writ, be the Protector of such Settlement.

Where, in the Case of the Disposition of a Reversion on or before the 31st of Dec. 1833, the Person to make the Tenant to the Writ of Entry in a Recovery shall be the Protector.

XXXI. Provided always, and be it further enacted, That where, under any Settlement of Lands made before the passing of this Act, the Person who, if this Act had not been passed, would have been the proper Person to make the Tenant to the Writ of Entry or other Writ for suffering a Common Recovery of such Lands for the Purpose of barring any Estate Tail or other Estate under such Settlement, shall be a bare Trustee, such Trustee shall, during the Continuance of the Estate conferring on him the Right to make the Tenant to such Writ of Entry or other Writ, be the Protector of such Settlement.

Where a bare Trustee under a Settlement made before the passing of this Act shall be the Protector.

XXXII. Provided always, and be it further enacted, That it shall be lawful for any Settlor entailing Lands to appoint, by the Settlement by which the Lands shall be entailed, any Number of Persons in

Power to any Settlor to appoint the Protector.

in esse, not exceeding Three, and not being Aliens, to be Protector of the Settlement in lieu of the Person who would have been the Protector if this Clause had not been inserted, and either for the Whole or any Part of the Period for which such Person might have continued Protector, and by means of a Power to be inserted in such Settlement to perpetuate during the Whole or any Part of such Period the Protectorship of the Settlement in any One Person or Number of Persons in esse, and not being an Alien or Aliens, whom the Donee of the Power shall think proper by Deed to appoint Protector of the Settlement in the Place of any One Person or Number of Persons who shall die or shall by Deed relinquish his or their Office of Protector; and the Person or Persons so appointed shall, in case of there being no other Person then Protector of the Settlement, be the Protector, and shall, in case of there being any other Person then Protector of the Settlement, be Protector jointly with such other Person: Provided nevertheless, that by virtue or means of any such Appointment the Number of the Persons to compose the Protector shall never exceed Three: Provided further nevertheless, that every Deed by which a Protector shall be appointed under a Power in a Settlement, and every Deed by which a Protector shall relinquish his Office, shall be void unless inrolled in His Majesty's High Court of Chancery within Six Calendar Months after the Execution thereof: Provided further nevertheless, that the Person who but for this Clause would have been sole Protector of the Settlement may be one of the Persons to be appointed Protector under this Clause, if the Settlor shall think fit, and shall, unless otherwise directed by the Settlor, act as sole Protector if the other Persons constituting the Protector shall have ceased to be so by Death or Relinquishment of the Office by Deed, and no other Person shall have been appointed in their Place.

In Cases of Lunacy, the Lord Chancellor or Lord Keeper or Lords Commissioners, or other Persons intrusted with Lunatics, or in Cases of Treason or Felony, &c. the Court of Chancery to be the Protector.

XXXIII. Provided always, and be it further enacted, That if any Person, Protector of a Settlement, shall be Lunatic, Idiot, or of unsound Mind, and whether he shall have been found such by Inquisition or not, then the Lord High Chancellor of *Great Britain*, or the Lord Keeper or the Lords Commissioners for the Custody of the Great Seal of *Great Britain*, for the Time being, or other the Person or Persons for the Time being intrusted by the King's Sign Manual with the Care and Commitment of the Custody of the Persons and Estates of Persons found Lunatic, Idiot, and of unsound Mind, shall be the Protector of such Settlement in lieu of the Person who shall be such Lunatic or Idiot or of unsound Mind as aforesaid; or if any Person, Protector of a Settlement, shall be convicted of Treason or Felony, or if any Person, not being the Owner of a prior Estate under a Settlement, shall be Protector of such Settlement, and shall be an Infant, or if it shall be uncertain whether such last-mentioned Person be living or dead, then His Majesty's High Court of Chancery shall be the Protector of such Settlement in lieu of the Person who shall be an Infant, or whose Existence cannot be ascertained as aforesaid; or if any Settlor entailing Lands shall in the Settlement by which the Lands shall be entailed declare that the Person who as Owner of a prior Estate under such Settlement would be entitled to be Protector of the Settlement shall not be such Protector,

tector, and shall not appoint any Person to be Protector in his Stead, then the said Court of Chancery shall, as to the Lands in which such prior Estate shall be subsisting, be the Protector of the Settlement during the Continuance of such Estate; or if in any other Case where there shall be subsisting under a Settlement an Estate prior to an Estate Tail under the same Settlement, and such prior Estate shall be sufficient to qualify the Owner thereof to be Protector of the Settlement, and there shall happen at any Time to be no Protector of the Settlement as to the Lands in which the prior Estate shall be subsisting, the said Court of Chancery shall, while there shall be no such Protector, and the prior Estate shall be subsisting, be the Protector of the Settlement as to such Lands.

Where there is a Protector, his Consent requisite to enable an actual Tenant in Tail to create a larger Estate than a Base Fee.

XXXIV. Provided always, and be it further enacted, That if at the Time when any Person, actual Tenant in Tail of Lands under a Settlement, but not entitled to the Remainder or Reversion in Fee immediately expectant on the Determination of his Estate Tail, shall be desirous of making under this Act a Disposition of the Lands entailed, there shall be a Protector of such Settlement, then and in every such Case the Consent of such Protector shall be requisite to enable such actual Tenant in Tail to dispose of the Lands entailed to the full Extent to which he is herein-before authorized to dispose of the same; but such actual Tenant in Tail may, without such Consent, make a Disposition under this Act of the Lands entailed, which shall be good against all Persons who, by force of any Estate Tail which shall be vested in or might be claimed by, or which but for some previous Act or Default would have been vested in or might have been claimed by, the Person making the Disposition at the Time of his making the same, shall claim the Lands entailed.

Where a Base Fee, and a Protector, his Consent requisite to the exercising of a Power of Disposition.

XXXV. Provided always, and be it further enacted, That where an Estate Tail shall have been converted into a Base Fee, in such Case, so long as there shall be a Protector of the Settlement by which the Estate Tail was created, the Consent of such Protector shall be requisite to enable the Person who would have been Tenant of the Estate Tail if the same had not been barred to exercise, as to the Lands in respect of which there shall be such Protector, the Power of Disposition herein-before contained.

The Protector to be subject to no Control in the Exercise of his Power of consenting.

XXXVI. And be it further enacted, That any Device, Shift, or Contrivance by which it shall be attempted to control the Protector of a Settlement in giving his Consent, or to prevent him in any way from using his absolute Discretion in regard to his Consent, and also any Agreement entered into by the Protector of a Settlement to withhold his Consent, shall be void; and that the Protector of a Settlement shall not be deemed to be a Trustee in respect of his Power of Consent; and a Court of Equity shall not control or interfere to restrain the Exercise of his Power of Consent, nor treat his giving Consent as a Breach of Trust.

Certain Rules of Equity not to apply

XXXVII. Provided always, and be it further enacted, That the Rules of Equity in relation to Dealings and Transactions between the Donee of a Power and any Object of the Power in whose Favour

not to apply between the Protector and a Tenant in Tail under the same.

the same may be exercised, shall not be held to apply to Dealings and Transactions between the Protector of a Settlement and a Tenant in Tail under the same Settlement, upon the Occasion of the Protector giving his Consent to a Disposition by a Tenant in Tail under this Act.

A voidable Estate by a Tenant in Tail, in favour of a Purchaser, confirmed by a subsequent Disposition of such Tenant in Tail under this Act, but not against a Purchaser without Notice.

XXXVIII. Provided always, and be it further enacted, That when a Tenant in Tail of Lands under a Settlement shall have already created or shall hereafter create in such Lands, or any of them, a voidable Estate in favour of a Purchaser for valuable Consideration, and shall afterwards under this Act, by any Assurance other than a Lease not requiring Inrolment, make a Disposition of the Lands in which such voidable Estate shall be created, or any of them, such Disposition, whatever its Object may be, and whatever may be the Extent of the Estate intended to be thereby created, shall, if made by the Tenant in Tail with the Consent of the Protector (if any) of the Settlement, or by the Tenant in Tail alone, if there shall be no such Protector, have the Effect of confirming such voidable Estate in the Lands thereby disposed of to its full Extent as against all Persons except those whose Rights are saved by this Act; but if at the Time of making the Disposition there shall be a Protector of the Settlement, and such Protector shall not consent to the Disposition, and the Tenant in Tail shall not without such Consent be capable under this Act of confirming the voidable Estate to its full Extent, then and in such Case such Disposition shall have the Effect of confirming such voidable Estate so far as such Tenant in Tail would then be capable under this Act of confirming the same without such Consent: Provided always, that if such Disposition shall be made to a Purchaser for valuable Consideration, who shall not have express Notice of the voidable Estate, then and in such Case the voidable Estate shall not be confirmed as against such Purchaser and the Persons claiming under him.

Base Fees, when united with the immediate Reversions, enlarged instead of being merged.

XXXIX. And be it further enacted, That if a Base Fee in any Lands, and the Remainder or Reversion in Fee in the same Lands, shall at the Time of the passing of this Act, or at any Time afterwards, be united in the same Person, and at any Time after the passing of this Act there shall be no intermediate Estate between the Base Fee and the Remainder or Reversion, then and in such Case the Base Fee shall not merge, but shall be *ipso facto* enlarged into as large an Estate as the Tenant in Tail, with the Consent of the Protector, if any, might have created by any Disposition under this Act if such Remainder or Reversion had been vested in any other Person.

Tenant in Tail to make a Disposition by Deed as if seised in Fee, but not by Will or Contract; and if a married Woman, with

XL. And be it further enacted, That every Disposition of Lands under this Act by a Tenant in Tail thereof shall be effected by some one of the Assurances (not being a Will) by which such Tenant in Tail could have made the Disposition if his Estate were an Estate at Law in Fee Simple absolute: Provided nevertheless, that no Disposition by a Tenant in Tail shall be of any Force either at Law or in Equity, under this Act, unless made or evidenced by Deed; and that no Disposition by a Tenant in Tail resting only in Contract,

either express or implied, or otherwise, and whether supported by a valuable or meritorious Consideration or not, shall be of any Force at Law or in Equity under this Act, notwithstanding such Disposition shall be made or evidenced by Deed; and if the Tenant in Tail making the Disposition shall be a married Woman, the Concurrence of her Husband shall be necessary to give effect to the same; and any Deed which may be executed by her for effecting the Disposition shall be acknowledged by her as herein-after directed. her Husband's Concurrence.

XLI. Provided always, and be it further enacted, That no Assurance by which any Disposition of Lands shall be effected under this Act by a Tenant in Tail thereof (except a Lease for any Term not exceeding Twenty-one Years, to commence from the Date of such Lease, or from any Time not exceeding Twelve Calendar Months from the Date of such Lease, where a Rent shall be thereby reserved, which, at the Time of granting such Lease, shall be a Rack Rent, or not less than Five Sixth Parts of a Rack Rent,) shall have any Operation under this Act unless it be inrolled in His Majesty's High Court of Chancery within Six Calendar Months after the Execution thereof; and if the Assurance by which any Disposition of Lands shall be effected under this Act shall be a Bargain and Sale, such Assurance, although not inrolled within the Time prescribed by the Act passed in the Twenty-seventh Year of the Reign of His Majesty King *Henry* the Eighth, intituled *For Inrollment of Bargains and Sales*, shall, if inrolled in the said Court of Chancery within the Time prescribed by this Clause, be as good and valid as the same would have been if the same had been inrolled in the said Court within the Time prescribed by the said Act of *Henry* the Eighth. Every Assurance by a Tenant in Tail, except a Lease not exceeding 21 Years at a Rack Rent, or not less than Five Sixths of a Rack Rent, to be inoperative unless inrolled in Chancery within Six Months 28 H. 8. c. 16.

XLII. And be it further enacted, That the Consent of the Protector of a Settlement to the Disposition under this Act of a Tenant in Tail shall be given either by the same Assurance by which the Disposition shall be effected, or by a Deed distinct from the Assurance, and to be executed either on or at any Time before the Day on which the Assurance shall be made, otherwise the Consent shall be void. Consent of the Protector to be given by the same Assurance or by a distinct Deed.

XLIII. And be it further enacted, That if the Protector of a Settlement shall, by a distinct Deed, give his Consent to the Disposition of a Tenant in Tail, it shall be considered that such Protector has given an absolute and unqualified Consent, unless in such Deed he shall refer to the particular Assurance by which the Disposition shall be effected, and shall confine his Consent to the Disposition thereby made. If by distinct Deed, to be considered unqualified, unless he refer to the Assurance.

XLIV. And be it further enacted, That it shall not be lawful for the Protector of a Settlement who, under this Act, shall have given his Consent to the Disposition of a Tenant in Tail, to revoke such Consent. Protector not to revoke his Consent.

XLV. And be it further enacted, That any married Woman, being either alone or jointly with her Husband Protector of a Settlement, may A married Woman Protector to con-

sent as a Feme Sole.

may under this Act, in the same Manner as if she were a Feme Sole, give her Consent to the Disposition of a Tenant in Tail.

Consent of a Protector by distinct Deed void, unless inrolled with or before the Assurance.

XLVI. Provided always, and be it further enacted, That the Consent of a Protector to the Disposition of a Tenant in Tail shall, if given by a Deed distinct from the Assurance by which the Disposition shall be effected by the Tenant in Tail, be void, unless such Deed be inrolled in His Majesty's High Court of Chancery either at or before the Time when the Assurance shall be inrolled.

Courts of Equity excluded from giving any Effect to Dispositions by Tenants in Tail, or Consents of Protectors of Settlements, which in Courts of Law would not be effectual.

XLVII. And be it further enacted, That in Cases of Dispositions of Lands under this Act by Tenants in Tail thereof, and also in Cases of Consents by Protectors of Settlements to Dispositions of Lands under this Act by Tenants in Tail thereof, the Jurisdiction of Courts of Equity shall be altogether excluded, either on the Behalf of a Person claiming for a valuable or meritorious Consideration, or not, in regard to the specific Performance of Contracts, and the supplying of Defects in the Execution either of the Powers of Disposition given by this Act to Tenants in Tail, or of the Powers of Consent given by this Act to Protectors of Settlements, and the supplying under any Circumstances of the Want of Execution of such Powers of Disposition and Consent respectively, and in regard to giving effect in any other Manner to any Act or Deed by a Tenant in Tail or Protector of a Settlement which in a Court of Law would not be an effectual Disposition or Consent under this Act; and that no Disposition of Lands under this Act by a Tenant in Tail thereof in Equity, and no Consent by a Protector of a Settlement to a Disposition of Lands under this Act by a Tenant in Tail thereof in Equity, shall be of any Force unless such Disposition or Consent would in case of an Estate Tail at Law be an effectual Disposition or Consent under this Act in a Court of Law.

Lord Chancellor, &c. to have Power to consent to a Disposition by a Tenant in Tail, and to make such Orders as shall be thought necessary; and if any other Person shall be joint Protector the Disposition not to be valid without his Consent.

XLVIII. Provided always, and be it further enacted, That in every Case in which the Lord High Chancellor, Lord Keeper or Lords Commissioners for the Custody of the Great Seal, or other the Person or Persons intrusted with the Care and Commitment of the Custody of the Persons and Estates of Persons found lunatic, idiot, and of unsound Mind, or His Majesty's High Court of Chancery, shall be the Protector of a Settlement, such Lord High Chancellor, Lord Keeper, or Lords Commissioners, or Person or Persons so intrusted as aforesaid, or the said Court of Chancery (as the Case may be), while Protector of such Settlement, shall, on the Motion or Petition in a summary Way by a Tenant in Tail under such Settlement, have full Power to consent to a Disposition under this Act by such Tenant in Tail, and the Disposition to be made by such Tenant in Tail upon such Motion or Petition as aforesaid shall be such as shall be approved of by such Lord High Chancellor, Lord Keeper, or Lords Commissioners, or Person or Persons so intrusted as aforesaid, or the said Court of Chancery (as the Case may be); and it shall be lawful for such Lord High Chancellor, Lord Keeper, or Lords Commissioners, or Person or Persons so intrusted as aforesaid, or the said Court of Chancery (as the Case may be), to make such Orders in the Matter as shall be thought necessary; and if such Lord High Chancellor, Lord

Lord Keeper, or Lords Commissioners, or Person or Persons so intrusted as aforesaid, or the said Court of Chancery (as the Case may be), shall, in lieu of any such Person as aforesaid, be the Protector of a Settlement, and there shall be any other Person Protector of the same Settlement jointly with such Person as aforesaid, then and in every such Case the Disposition by the Tenant in Tail, though approved of as aforesaid, shall not be valid, unless such other Person being Protector as aforesaid shall consent thereto in the Manner in which the Consent of the Protector is by this Act required to be given.

Order of the Lord Chancellor, &c. to be Evidence of Consent.

XLIX. Provided always, and be it further enacted, That in every Case in which the Lord High Chancellor, Lord Keeper or Lords Commissioners for the Custody of the Great Seal, or other the Person or Persons intrusted with the Care and Commitment of the Custody of the Persons and Estates of Persons found lunatic, idiot, and of unsound Mind, or His Majesty's High Court of Chancery, shall be the Protector of a Settlement, no Document or Instrument, as Evidence of the Consent of such Protector to the Disposition of a Tenant in Tail under such Settlement, shall be requisite beyond the Order in obedience to which the Disposition shall have been made.

The previous Clauses to apply to Copyholds, with certain Variations.

L. And be it further enacted, That all the previous Clauses in this Act, so far as Circumstances and the different Tenures will admit, shall apply to Lands held by Copy of Court Roll, except that a Disposition of any such Lands under this Act by a Tenant in Tail thereof, whose Estate shall be an Estate at Law, shall be made by Surrender, and except that a Disposition of any such Lands under this Act by a Tenant in Tail thereof, whose Estate shall be merely an Estate in Equity, may be made either by Surrender or by a Deed as herein-after provided, and except so far as such Clauses are otherwise altered or varied by the Clauses herein-after contained.

As to the Deed of Consent and the Entry of it on the Court Rolls where the Protector of a Settlement of Copyholds consents by Deed to the Disposition of a Tenant in Tail.

LI. Provided always, and be it further enacted, That if the Consent of the Protector of a Settlement to the Disposition of Lands held by Copy of Court Roll by a Tenant in Tail thereof shall be given by Deed, such Deed shall, either at or before the Time when the Surrender shall be made by which the Disposition shall be effected, be executed by such Protector, and produced to the Lord of the Manor of which the Lands are Parcel, or to his Steward, or to the Deputy of such Steward; and the Consent of such Protector shall be void unless such Deed shall be so executed and produced; and on the Production of the Deed the Lord, or Steward or Deputy Steward, shall by Writing under his Hand, to be indorsed on the Deed, acknowledge that the same was produced within the Time limited, and shall cause such Deed, with the Indorsement thereon, to be entered on the Court Rolls of the Manor; and the Indorsement, purporting to be so signed, shall of itself be *primâ facie* Evidence that the Deed was produced within the Time limited, and that the Person who signed the Indorsement was the Lord of the Manor, or his Steward, or the Deputy of such Steward; and after such Deed shall have been so entered the Lord of the Manor, or his Steward, or the Deputy of

such Steward, shall indorse thereon a Memorandum signed by him, testifying the Entry of the same on the Court Rolls.

As to the Consent of the Protector of a Settlement of Copyholds when not given by Deed, and the preserving of Evidence of the same on the Court Rolls.

LII. Provided always, and be it further enacted, That if the Consent of the Protector of a Settlement to the Disposition of Lands held by Copy of Court Roll by a Tenant in Tail thereof shall not be given by Deed, then and in such Case the Consent shall be given by the Protector to the Person taking the Surrender by which the Disposition shall be effected; and if the Surrender shall be made out of Court, it shall be expressly stated in the Memorandum of such Surrender that such Consent had been given, and such Memorandum shall be signed by the Protector; and the Lord of the Manor of which the Lands are Parcel, or his Steward, or the Deputy of such Steward, shall cause the Memorandum, with such Statement therein as to the Consent, to be entered on the Court Rolls of the Manor; and such Memorandum shall be good Evidence of the Consent and of the Surrender therein stated to be made; and the Entry of the Memorandum on the Court Rolls, or a Copy of such Entry, shall be as available for the Purposes of Evidence as any other Entry on the Court Rolls, or a Copy thereof; but if the Surrender shall be made in Court, the Lord of the Manor, or his Steward, or the Deputy of such Steward, shall cause an Entry of such Surrender, containing a Statement that such Consent had been given, to be made on the Court Rolls; and the Entry of such Surrender on the Court Rolls, or a Copy of such Entry, shall be as available for the Purposes of Evidence as any other Entry on the Court Rolls, or a Copy thereof.

Power to equitable Tenants in Tail of Copyholds to dispose of their Lands by Deed.

LIII. Provided always, and be it further enacted, That a Tenant in Tail of Lands held by Copy of Court Roll, whose Estate shall be merely an Estate in Equity, shall have full Power by Deed to dispose of such Lands under this Act in the same Manner in every respect as he could have done if they had been of Freehold Tenure; and all the previous Clauses in this Act shall, so far as Circumstances will admit, apply to the Lands in respect of which any such equitable Tenant in Tail shall avail himself of this present Clause; and the Deed by which the Disposition shall be effected shall be entered on the Court Rolls of the Manor of which the Lands thereby disposed of may be Parcel; and if there shall be a Protector to consent to the Disposition, and such Protector shall give his Consent by a distinct Deed, the Consent shall be void unless the Deed of Consent be executed by the Protector either on or at any Time before the Day on which the Deed of Disposition shall be executed by the equitable Tenant in Tail; and such Deed of Consent shall be entered on the Court Rolls; and it shall be imperative on the Lord of the Manor, or his Steward, or the Deputy of such Steward, when required so to do, to enter such Deed or Deeds on the Court Rolls, and he shall indorse on each Deed so entered a Memorandum, signed by him, testifying the Entry of the same on the Court Rolls: Provided always, that every Deed by which Lands held by Copy of Court Roll shall be disposed of under this Clause, by an equitable Tenant in Tail thereof, shall be void against any Person claiming such Lands, or any of them, for valuable Consideration under any subsequent Assurance duly entered

entered on the Court Rolls of the Minor of which the Lands may be Parcel, unless the Deed of Disposition by the equitable Tenant in Tail be entered on the Court Rolls of such Manor before the subsequent Assurance shall have been entered.

Inrolment not necessary as to Copyholds.

LIV. Provided always, and be it further enacted, That in no Case where any Disposition under this Act of Lands held by Copy of Court Roll, by a Tenant in Tail thereof, shall be effected by Surrender or by Deed, shall the Surrender or the Memorandum, or a Copy thereof, or the Deed of Disposition, or the Deed, if any, by which the Protector shall consent to the Disposition, require Inrolment otherwise than by Entry on the Court Rolls.

Repeal of the Bankrupt Act, 6 G. 4. c. 16. s. 65., so far as relates to Estates Tail, but not to extend to Lands of a Bankrupt under a Commission or Fiat issued on or before the 31st of Dec. 1833, nor to revive former Acts.

LV. And be it further enacted, That after the Thirty-first Day of *December* One thousand eight hundred and thirty-three so much of an Act passed in the Sixth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws relating to Bankrupts*, as empowers the Commissioners named in any Commission of Bankrupt issued against a Tenant in Tail to make Sale of any Lands, Tenements, and Hereditaments, situate either in *England* or *Ireland*, whereof such Bankrupt shall be seised of any Estate Tail in Possession, Reversion, or Remainder, and whereof no Reversion or Remainder is in the Crown, the Gift or Provision of the Crown, shall be and the same is hereby repealed: Provided always, that such Repeal shall not extend to the Lands, whatever the Tenure may be, of any Person adjudged a Bankrupt under any Commission of Bankrupt, or under any Fiat which, in pursuance of the said Act of the Sixth Year of the Reign of King *George* the Fourth, or of any former Act concerning Bankrupts, or of an Act passed in the First and Second Years of the Reign of His Majesty King *William* the Fourth, intituled *An Act to establish a Court of Bankruptcy*, hath been or shall be issued on or before the Thirty-first Day of *December* One thousand eight hundred and thirty-three; Provided also, that such Repeal shall not have the Effect of reviving in any respect the Acts repealed by the said Act of the Sixth Year of the Reign of King *George* the Fourth, or any of them.

The Commissioner, in the Case of an actual Tenant in Tail becoming bankrupt after the 31st of Dec. 1833, by Deed to dispose of the Lands of the Bankrupt to a Purchaser.

LVI. And be it further enacted, That any Commissioner acting in the Execution of any Fiat which after the Thirty-first Day of *December* One thousand eight hundred and thirty-three shall be issued in pursuance of the said Act passed in the First and Second Years of the Reign of King *William* the Fourth, under which any Person shall be adjudged a Bankrupt who at the Time of issuing such Fiat, or at any Time afterwards, before he shall have obtained his Certificate, shall be an actual Tenant in Tail of Lands of any Tenure, shall by Deed dispose of such Lands to a Purchaser for valuable Consideration, for the Benefit of the Creditors of such actual Tenant in Tail, and shall create by any such Disposition as large an Estate in the Lands disposed of as the actual Tenant in Tail, if he had not become bankrupt, could have done under this Act at the Time of such Disposition; Provided always, that if at the Time of the Disposition of such Lands, or any of them, by such Commissioner as aforesaid, there shall be a Protector of the

the Settlement by which the Estate of such actual Tenant in Tail in the Lands disposed of by such Commissioner was created, and the Consent of such Protector would have been requisite to have enabled the actual Tenant in Tail, if he had not become bankrupt, to have disposed of such Lands to the full Extent to which, if there had been no such Protector, he could under this Act have disposed of the same, and such Protector shall not consent to the Disposition, then and in such Case the Estate created in such Lands, or any of them, by the Disposition of such Commissioner, shall be as large an Estate as the actual Tenant in Tail, if he had not become bankrupt, could at the Time of such Disposition have created under this Act in such Lands without the Consent of the Protector.

Commissioner, in case of a Tenant in Tail entitled to a Base Fee becoming bankrupt, and of there being no Protector, by Deed to dispose of the Lands of the Bankrupt to a Purchaser.

LVII. And be it further enacted, That any Commissioner acting in the Execution of any such Fiat as aforesaid under which any Person shall be adjudged a Bankrupt who at the Time of issuing such Fiat, or at any Time afterwards before he shall have obtained his Certificate, shall be a Tenant in Tail entitled to a Base Fee in Lands of any Tenure, shall by Deed dispose of such Lands to a Purchaser for valuable Consideration, for the Benefit of the Creditors of the Person so entitled as aforesaid, provided at the Time of the Disposition there be no Protector of the Settlement by which the Estate Tail converted into the Base Fee was created; and by such Disposition the Base Fee shall be enlarged into as large an Estate as the same could at the Time of such Disposition have been enlarged into under this Act by the Person so entitled if he had not become bankrupt.

As to the Consent of the Protector in case of Bankruptcy.

LVIII. And be it further enacted, That the Commissioner acting in the Execution of any such Fiat as aforesaid under which a Person being, or before obtaining his Certificate becoming, an actual Tenant in Tail of Lands of any Tenure, or a Tenant in Tail entitled to a Base Fee in Lands of any Tenure, shall be adjudged a Bankrupt, shall, if there shall be a Protector of the Settlement by which the Estate Tail of such actual Tenant in Tail, or the Estate Tail converted into a Base Fee (as the Case may be), was created, stand in the Place of such actual Tenant in Tail, or Tenant in Tail so entitled as aforesaid, so far as regards the Consent of such Protector; and the Disposition of such Lands, or any of them, by such Commissioner as aforesaid, if made with the Consent of such Protector, shall, whether such Commissioner may have made under this Act a prior Disposition of the same Lands without the Consent of such Protector or not, or whether a prior Sale or Conveyance of the same Lands shall have been made or not, under the said Acts of the Sixth Year of King *George* the Fourth and the First and Second Years of King *William* the Fourth, or either of them, or any Acts hereafter to be passed concerning Bankrupts, have the same Effect as such Disposition would have had if such actual Tenant in Tail, or Tenant in Tail so entitled as aforesaid, had not become bankrupt, and such Disposition had been made by him under this Act, with the Consent of such Protector; and all the previous Clauses in this Act, in regard to the Consent of the Protector to the Disposition of a Tenant in Tail of Lands not held by Copy of Court Roll, and in regard to the Time

and Manner of giving such Consent, and in regard to the Inrolment of the Deed of Consent, where such Deed shall be distinct from the Assurance by which the Disposition of the Commissioner shall be effected, shall, except so far as the same may be varied by the Clause next herein-after contained, apply to every Consent that may be given by virtue of this present Clause.

As to the Inrolment in Chancery of the Deed of Disposition of Freehold Lands, and the Entry on the Court Rolls of the Deed of Disposition of Copyhold Lands;

LIX. And be it further enacted, That every Deed by which any Commissioner acting in the Execution of any such Fiat as aforesaid shall, under this Act, dispose of Lands not held by Copy of Court Roll, shall be void unless inrolled in His Majesty's High Court of Chancery within Six Calendar Months after the Execution thereof; and every Deed by which any Commissioner acting in the Execution of any such Fiat as aforesaid shall, under this Act, dispose of Lands held by Copy of Court Roll, shall be entered on the Court Rolls of the Manor of which the Lands may be Parcel; and if there shall be a Protector who shall consent to the Disposition of such Lands held by Copy of Court Roll, and he shall give his Consent by a distinct Deed, the Consent shall be void unless the Deed of Consent be executed by the Protector either on or at any Time before the Day on which the Deed of Disposition shall be executed by the Commissioner; and such Deed of Consent shall be entered on the Court Rolls; and it shall be imperative on the Lord of every Manor of which any Lands disposed of under this Act by any such Commissioner as aforesaid may be Parcel, or the Steward of such Lord, or the Deputy of such Steward, to enter on the Court Rolls of the Manor every Deed required by this present Clause to be entered on the Court Rolls, and he shall indorse on every Deed so entered a Memorandum, signed by him, testifying the Entry of the same on the Court Rolls.

and of the Deed of Consent.

Subsequent Enlargement of Base Fees created by the Disposition of the Commissioner.

LX. And be it further enacted, That if any Commissioner acting in the Execution of any such Fiat as aforesaid shall, under this Act, dispose of any Lands of any Tenure of which the Bankrupt shall be actual Tenant in Tail, and in consequence of there being a Protector of the Settlement by which the Estate of such actual Tenant in Tail was created, and of his not giving his Consent, only a Base Fee shall by such Disposition be created in such Lands, and if at any Time afterwards during the Continuance of the Base Fee there shall cease to be a Protector of such Settlement, then and in such Case, and immediately thereupon, such Base Fee shall be enlarged into the same Estate into which the same could have been enlarged under this Act if at the Time of the Disposition by such Commissioner as aforesaid there had been no such Protector.

Enlargement of Base Fees subsequent to the Sale or Conveyance of the same under the Bankrupt Acts.

LXI. And be it further enacted, That if a Tenant in Tail entitled to a Base Fee in Lands of any Tenure shall be adjudged a Bankrupt at the Time when there shall be a Protector of the Settlement by which the Estate Tail converted into the Base Fee was created, and if such Lands shall be sold or conveyed under the said Acts of the Sixth Year of King *George* the Fourth and the First and Second Years of King *William* the Fourth, or either of them, or any other Acts hereafter to be passed concerning Bankrupts, and if at any

Time afterwards during the Continuance of the Base Fee in such Lands there shall cease to be a Protector of such Settlement, then and in such Case, and immediately thereupon, the Base Fee in such Lands shall be enlarged into the same Estate into which the same could have been enlarged under this Act if at the Time of the Adjudication of such Bankruptcy there had been no such Protector; and the Commissioner acting in the Execution of the Fiat under which the Tenant in Tail so entitled shall have been adjudged a Bankrupt had disposed of such Lands under this Act.

A voidable Estate created in favour of a Purchaser by an actual Tenant in Tail becoming bankrupt, or by a Tenant in Tail entitled to a Base Fee becoming bankrupt, confirmed by the Disposition of the Commissioner, if no Protector, or being such with his Consent, or on there ceasing to be a Protector; but not against a Purchaser, without Notice.

LXII. Provided always, and be it further enacted, That where an actual Tenant in Tail of Lands of any Tenure, or a Tenant in Tail entitled to a Base Fee in Lands of any Tenure, shall have already created or shall hereafter create in such Lands, or any of them, a voidable Estate in favour of a Purchaser for valuable Consideration, and such actual Tenant in Tail, or Tenant in Tail so entitled as aforesaid, shall be adjudged a Bankrupt under any such Fiat as aforesaid, and the Commissioner acting in the Execution of such Fiat shall make any Disposition under this Act of the Lands in which such voidable Estate shall be created, or any of them, then and in such Case, if there shall be no Protector of the Settlement by which the Estate Tail of the actual Tenant in Tail, or the Estate Tail converted into a Base Fee, as the Case may be, was created, or being such Protector he shall consent to the Disposition by such Commissioner as aforesaid, whether such Commissioner may have made under this Act a previous Disposition of such Lands or not, or whether a prior Sale or Conveyance of the same Lands shall have been made or not under the said Acts of the Sixth Year of King *George* the Fourth and the First and Second Years of King *William* the Fourth, or either of them, or any other Acts hereafter to be passed concerning Bankrupts, the Disposition by such Commissioner shall have the Effect of confirming such voidable Estate in the Lands thereby disposed of to its full Extent as against all Persons except those whose Rights are saved by this Act; and if at the Time of the Disposition by such Commissioner, in the Case of an actual Tenant in Tail, there shall be a Protector, and such Protector shall not consent to the Disposition by such Commissioner, and such actual Tenant in Tail, if he had not been adjudged a Bankrupt, would not without such Consent have been capable under this Act of confirming the voidable Estate to its full Extent, then and in such Case such Disposition shall have the Effect of confirming such voidable Estate so far as such actual Tenant in Tail, if he had not been adjudged a Bankrupt, could at the Time of such Disposition have been capable under this Act of confirming the same without such Consent; and if at any Time after the Disposition of such Lands by such Commissioner, and while only a Base Fee shall be subsisting in such Lands, there shall cease to be a Protector of such Settlement, and such Protector shall not have consented to the Disposition by such Commissioner, then and in such Case such voidable Estate, so far as the same may not have been previously confirmed, shall be confirmed to its full Extent as against all Persons except those whose Rights are saved by this Act: Provided always, that if the Disposition by any such Commissioner as aforesaid shall be made to a Purchaser for valuable

Consideration, who shall not have express Notice of the voidable Estate, then and in such Case the voidable Estate shall not be confirmed against such Purchaser and the Persons claiming under him.

Acts of a bankrupt Tenant in Tail void against any Disposition under this Act by the Commissioner.

LXIII. And be it further enacted, That all Acts and Deeds done and executed by a Tenant in Tail of Lands of any Tenure, who shall be adjudged a Bankrupt under any such Fiat as aforesaid, and which shall affect such Lands or any of them, and which, if he had been seised of or entitled to such Lands in Fee Simple absolute, would have been void against the Assignees of the Bankrupt's Estate, and all Persons claiming under them, shall be void against any Disposition which may be made of such Lands under this Act by such Commissioner as aforesaid.

Subject to the Powers given to the Commissioner, and to the Estate in the Assignees, a bankrupt Tenant in Tail shall retain his Powers of Disposition.

LXIV. Provided always, and be it further enacted, That, subject and without Prejudice to the Powers of Disposition given by this Act to the Commissioner acting in the Execution of any such Fiat as aforesaid under which a Person being, or before obtaining his Certificate becoming, an actual Tenant in Tail of Lands of any Tenure, or a Tenant in Tail entitled to a Base Fee in Lands of any Tenure shall be adjudged a Bankrupt, and also subject and without Prejudice to the Estate in such Lands which may be vested in the Assignees of the Bankrupt's Estate, and also subject and without Prejudice to the Rights of all Persons claiming under the said Assignees in respect of such Lands or any of them, such actual Tenant in Tail, or Tenant in Tail so entitled as aforesaid, shall have the same Powers of Disposition under this Act in regard to such Lands as he would have had if he had not become bankrupt.

The Disposition by the Commissioner of the Lands of a bankrupt Tenant in Tail shall, if the Bankrupt be dead, have in the Cases herein mentioned the same Operation as if he were alive.

LXV. And be it further enacted, That any Disposition under this Act of Lands of any Tenure by any Commissioner acting in the Execution of any such Fiat as aforesaid under which a Person being, or before obtaining his Certificate becoming, an actual Tenant in Tail of such Lands, or a Tenant in Tail entitled to a Base Fee in such Lands shall be adjudged a Bankrupt, shall, although the Bankrupt be dead at the Time of the Disposition, be in the following Cases as valid and effectual as the same would have been, and have the same Operation under this Act as the same would have had, if the Bankrupt were alive; (that is to say,) in case at the Time of the Bankrupt's Decease there shall be no Protector of the Settlement by which the Estate Tail of the actual Tenant in Tail, or the Estate Tail converted into a Base Fee, as the Case may be, was created; or in case the Bankrupt had been an actual Tenant in Tail of such Lands, and there shall at the Time of the Disposition be any Issue inheritable to the Estate Tail of the Bankrupt in such Lands, and either no Protector of the Settlement by which the Estate Tail was created, or a Protector of such Settlement who, in the Manner required by this Act, shall consent to the Disposition, or a Protector of such Settlement who shall not consent to the Disposition; or in case the Bankrupt had been a Tenant in Tail entitled to a Base Fee in such Lands, and there shall at the Time of the Disposition be any Issue who if the Base Fee had not been created would

would have been actual Tenant in Tail of such Lands, and either no Protector of the Settlement by which the Estate Tail converted into a Base Fee was created, or a Protector of such Settlement who, in the Manner required by this Act, shall consent to the Disposition.

Every Disposition by the Commissioner of Copyhold Lands where the Estate shall not be equitable to have the same Operation as a Surrender; and the Person to whom such Land shall have been disposed of may claim to be admitted on paying the Fines, &c.

LXVI. And be it further enacted, That every Disposition which under this Act may be made by any Commissioner acting in the Execution of any such Fiat as aforesaid of Lands held by Copy of Court Roll shall, in every Case in which the Estate of the Bankrupt in such Lands shall not be merely an Estate in Equity, operate in the same Manner as if such Lands had, for the same Estate which shall have been acquired by the Disposition by such Commissioner as aforesaid, been duly surrendered into the Hands of the Lord of the Manor of which they may be Parcel, to the Use of the Person to whom the same shall have been disposed of by such Commissioner; and the Person to whom the Lands shall have been so disposed of by such Commissioner may claim to be admitted Tenant of such Lands, to hold the same by the ancient Rents, Customs, and Services, in the same Manner as if such Lands had been duly surrendered to his Use into the Hands of the Lord of the Manor of which such Lands may be Parcel, and shall, upon being admitted Tenant of such Lands, to hold the same as aforesaid, pay the Fines, Fees, and other Dues which could have been lawfully demanded upon such Admittance if such Lands had, for the same Estate which shall have been acquired by the Disposition by such Commissioner as aforesaid, passed by Surrender into the Hands of the Lord, to the Use of the Person so admitted.

Assignees to recover Rents of the Lands of a Bankrupt, of which the Commissioner has Power to make Disposition, and to enforce Covenants, as if entitled to the Reversion. This Clause to apply to all Copyhold Lands; but as to other Lands, only to such as the Commissioner may dispose of after the Bankrupt's Death. 11 G. 2. c. 19.

LXVII. And be it further enacted, That the Rents and Profits of any Lands of which any Commissioner acting in the Execution of any such Fiat as aforesaid hath Power to make Disposition under this Act shall in the meantime and until such Disposition shall be made, or until it shall be ascertained that such Disposition shall not be required for the Benefit of the Creditors of the Person adjudged bankrupt under the Fiat, be received by the Assignees of the Estate of the Bankrupt, for the Benefit of his Creditors; and the Assignees may proceed by Action of Debt for the Recovery of such Rents and Profits, or may distrain for the same upon the Lands subject to the Payment thereof, and in case any Action of Trespass shall be brought for taking any such Distress may plead thereto the General Issue, and give this Act or other special Matter in Evidence, and also, in case any such Distress shall be replevied, shall have Power to avow or make cognizance generally in such Manner and Form as any Landlord may now do by virtue of the Statute made in the Eleventh Year of the Reign of His Majesty King *George* the Second, intituled *An Act for the more effectual securing the Payment of Rents and preventing Frauds by Tenants*, or by any other Law or Statute now in force or hereafter to be made for the more effectually recovering of Rent in arrear; and such Assignees, and their Bailiffs, Agents, and Servants, shall also have all such and the same Remedies, Powers, Privileges, and Advantages of pleading, avowing, and making cognizance, and be entitled to the same Costs and Damages, and the same Remedies for the Recovery thereof, as Landlords, their Bailiffs, Agents,

Agents, and Servants, are now or hereafter may be by Law entitled to have when Rent is in arrear; and such Assignees shall also have the same Power and Authority of enforcing the Observance of all Covenants, Conditions, and Agreements in respect of the Lands of which such Commissioner as aforesaid hath the Power of Disposition under this Act, and in respect of the Rents and Profits thereof, and of Entry into and upon the same Lands for the Nonobservance of any such Covenant, Condition, and Agreement, and of expelling and amoving therefrom the Tenants or other Occupiers thereof, and thereby determining and putting an End to the Estate of the Persons who shall not have observed such Covenants, Conditions, and Agreements, as the Bankrupt would have had in case he had not been adjudged a Bankrupt: Provided always, that this Clause shall apply to all Lands held by Copy of Court Roll, but shall only apply to those Lands of any other Tenure which any Commissioner acting in the Execution of any such Fiat as aforesaid may have Power to dispose of under this Act after the Bankrupt's Decease.

All the Provisions of the Act in regard to Bankrupts shall apply to their Lands in Ireland.

LXVIII. And be it further enacted, That all the Provisions in this Act contained for the Benefit of the Creditors of Persons who under such Fiats as aforesaid shall be adjudged Bankrupts after the Thirty-first Day of *December* One thousand eight hundred and thirty-three, and for the Confirmation in consequence of Bankruptcy of voidable Estates created by them, shall extend and apply to the Lands of any Tenure in *Ireland* of such Persons as fully and effectually as if this Act had throughout extended to Lands of any Tenure in *Ireland*; saving always the Rights of the King's most Excellent Majesty, His Heirs and Successors, to any Reversion or Remainder in the Crown in Lands in *Ireland*.

Deeds relating to the Lands of Bankrupts in Ireland to be inrolled in the Court of Chancery there.

LXIX. Provided always, and be it further enacted, That in all Cases of Bankruptcy, every Deed of Disposition under this Act of Lands in *Ireland* by any Commissioner acting in the Execution of any such Fiat as aforesaid, and also every Deed by which the Protector of a Settlement of Lands in *Ireland* shall consent, shall be inrolled in His Majesty's High Court of Chancery in *Ireland* within Six Calendar Months after the Execution thereof, and not in His Majesty's High Court of Chancery in *England*.

Repeal of the Statute 7 G. 4. c. 45. except as to Proceedings commenced before 1st Jan. 1834.

LXX. And be it further enacted, That after the Thirty-first Day of *December* One thousand eight hundred and thirty-three an Act passed in the Seventh Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for repealing an Act passed in the Thirty-ninth and Fortieth Years of the Reign of His late Majesty King* George *the Third, intituled 'An Act for the Relief of Persons 'entitled to Entailed Estates to be purchased with Trust Monies,' and for making further Provision in lieu thereof,* shall be and the same is hereby repealed, except as to such Proceedings under the Act hereby repealed as shall have been commenced before the First Day of *January* One thousand eight hundred and thirty-four, and which may be continued under the Authority and according to the Provisions of the Act hereby repealed: Provided always, that the Act repealed by the said Act of the Seventh Year of the Reign of His late Majesty King *George* the Fourth shall not be revived.

39 & 40 G. 3. c. 56 not to be revived.

The previous Clauses, with certain Variations, to apply to Lands of any Tenure to be sold, where the Purchase Money is subject to be invested in the Purchase of Lands to be entailed, and where Money is subject to be invested in like Manner.

LXXI. And be it further enacted, That Lands to be sold, whether Freehold or Leasehold, or of any other Tenure, where the Money arising from the Sale thereof shall be subject to be invested in the Purchase of Lands to be settled, so that any Person, if the Lands were purchased, would have an Estate Tail therein, and also Money subject to be invested in the Purchase of Lands to be settled, so that any Person, if the Lands were purchased, would have an Estate Tail therein, shall for all the Purposes of this Act be treated as the Lands to be purchased, and be considered subject to the same Estates as the Lands to be purchased would, if purchased, have been actually subject to; and all the previous Clauses in this Act, so far as Circumstances will admit, shall, in the Case of the Lands to be sold as aforesaid being either Freehold or Leasehold, or of any other Tenure, except Copy of Court Roll, apply to such Lands in the same Manner as if the Lands to be purchased with the Money to arise from the Sale thereof were directed to be Freehold, and were actually purchased and settled; and shall, in the Case of the Lands to be sold as aforesaid being held by Copy of Court Roll, apply to such Lands in the same Manner as if the Lands to be purchased with the Money to arise from the Sale thereof were directed to be Copyhold, and were actually purchased and settled; and shall, in the Case of Money subject to be invested in the Purchase of Lands to be so settled as aforesaid, apply to such Money in the same Manner as if such Money were directed to be laid out in the Purchase of Freehold Lands, and such Lands were actually purchased and settled; save and except that in every Case where under this Clause a Disposition shall be to be made of Leasehold Lands for Years absolute or determinable, so circumstanced as aforesaid, or of Money so circumstanced as aforesaid, such Leasehold Lands or Money shall, as to the Person in whose Favour or for whose Benefit the Disposition is to be made, be treated as Personal Estate, and, except in case of Bankruptcy, the Assurance by which the Disposition of such Leasehold Lands or Money shall be effected shall be an Assignment by Deed, which shall have no Operation under this Act unless inrolled in His Majesty's High Court of Chancery within Six Calendar Months after the Execution thereof; and in every Case of Bankruptcy the Disposition of such Leasehold Lands or Money shall be made by the Commissioner, and completed by Inrolment in the same Manner as herein-before required in regard to Lands not held by Copy of Court Roll.

Lands of any Tenure in Ireland, to be sold, where the Purchase Money is subject to be invested in the Purchase of Lands to be entailed, and Money under the Control of a Court of Equity in Ireland, sub-

LXXII. And be it further enacted, That so far as regards any Person adjudged a Bankrupt under any such Fiat as aforesaid, the Provisions of the Clause lastly herein-before contained shall, for the Benefit of the Creditors of the Bankrupt, apply to Lands in *Ireland* to be sold, whether Freehold or Leasehold, or of any other Tenure, where the Money arising from the Sale thereof shall be subject to be invested in the Purchase of Lands to be settled so that the Bankrupt, if the Lands were purchased, would have an Estate Tail therein, and also to Money under the Control of any Court of Equity in *Ireland*, or of or to which any Individuals as Trustees may be possessed or entitled in *Ireland*, and which shall be subject to be invested in the Purchase of Lands to be settled so that the Bankrupt, if the Lands were purchased, would have an Estate Tail therein, as fully and effectually as if this Act had throughout extended to *Ireland*: Provided

vided always, that every Deed to be executed by any Commissioner or Protector, in pursuance of this Clause, in regard to Lands in *Ireland* to be so sold as aforesaid, shall be inrolled in His Majesty's High Court of Chancery in *Ireland* within Six Calendar Months after the Execution thereof; but every Deed to be executed by any Commissioner or Protector, in pursuance of this Clause, in regard to Money subject to be invested in the Purchase of Lands to be so settled as aforesaid, shall be inrolled in His Majesty's High Court of Chancery in *England* within Six Calendar Months after the Execution thereof, and not in His Majesty's High Court of Chancery in *Ireland;* saving always the Rights of the King's most Excellent Majesty, His Heirs and Successors, to any Reversion or Remainder in the Crown in Lands in *Ireland* to be sold.

ject to be invested in like Manner, to be subject to this Act in Cases of Bankruptcy.

LXXIII. And be it further enacted, That any Rule or Practice requiring Deeds to be acknowledged before Inrolment shall not apply to any Deed by this Act required to be inrolled in His Majesty's High Court of Chancery in *England* or *Ireland*.

As to Deeds being acknowledged before Inrolment.

LXXIV. And be it further enacted, That every Deed required to be inrolled in His Majesty's High Court of Chancery in *England* or *Ireland*, by which Lands, or Money subject to be invested in the Purchase of Lands, shall be disposed of under this Act, shall, when inrolled as required by this Act, operate and take effect in the same Manner as it would have done if the Inrolment thereof had not been required, except that every such Deed shall be void against any Person claiming the Lands or Money thereby disposed of, or any Part thereof, for valuable Consideration, under any subsequent Deed duly inrolled under this Act, if such subsequent Deed shall be first inrolled.

Every Deed to be inrolled by which Lands or Money shall be disposed of under this Act, to take effect as if Inrolment not required.

LXXV. And be it further enacted, That it shall be lawful for His Majesty's High Court of Chancery in *England*, as to Deeds to be inrolled in *England* under this Act, and for His Majesty's High Court of Chancery in *Ireland*, as to Deeds to be inrolled in *Ireland* under this Act, from Time to Time to make such Orders as the Court shall think fit touching the Amount of the Fees and Charges to be paid for the Inrolment of such Deeds, and to be paid for Searches for such Deeds in the Office of Inrolments, and to be paid for Copies of the Inrolments of Deeds under this Act, where such Copies are examined with the Inrolments, and signed by the proper Officer having the Custody of such Inrolments.

The Court of Chancery to regulate the Fees to be paid for the Inrolment of Deeds, &c.

LXXVI. And be it further enacted, That it shall be lawful for His Majesty's Court of Common Pleas at *Westminster* from Time to Time to make such Orders as the Court shall think fit touching the Amount of the Fees and Charges to be paid for the Entries of Deeds by this Act required to be entered on the Court Rolls of Manors, and for the Indorsements thereon, and for taking the Consents of the Protectors of Settlements of Lands held by Copy of Court Roll, where such Consents shall not be given by Deed, and for taking Surrenders by which Dispositions shall be made under this Act by Tenants in Tail of Lands held by Copy of Court Roll, and for Entries of such Surrenders or the Memorandums thereof on the Court Rolls.

The Court of Common Pleas to regulate the Fees for Entries on Court Rolls and Indorsements on Deeds, and for taking Consents, &c.

LXXVII. And

A married Woman, with her Husband's Concurrence, to dispose of Lands and Money subject to be invested in the Purchase of Lands, and of any Estate therein; and to release and extinguish Powers, as a Feme Sole.

LXXVII. And be it further enacted, That after the Thirty-first Day of *December* One thousand eight hundred and thirty-three it shall be lawful for every married Woman, in every Case except that of being Tenant in Tail, for which Provision is already made by this Act, by Deed to dispose of Lands of any Tenure, and Money subject to be invested in the Purchase of Lands, and also to dispose of, release, surrender, or extinguish any Estate which she alone, or she and her Husband in her Right, may have in any Lands of any Tenure, or in any such Money as aforesaid, and also to release or extinguish any Power which may be vested in or limited or reserved to her in regard to any Lands of any Tenure, or any such Money as aforesaid, or in regard to any Estate in any Lands of any Tenure, or in any such Money as aforesaid, as fully and effectually as she could do if she were a Feme Sole; save and except that no such Disposition, Release, Surrender, or Extinguishment shall be valid and effectual unless the Husband concur in the Deed by which the same shall be effected, nor unless the Deed be acknowledged by her as hereinafter directed: Provided always, that this Act shall not extend to Lands held by Copy of Court Roll of or to which a married Woman, or she and her Husband in her Right, may be seised or entitled for an Estate at Law, in any Case in which any of the Objects to be effected by this Clause could before the passing of this Act have been effected by her, in concurrence with her Husband, by Surrender into the Hands of the Lord of the Manor of which the Lands may be Parcel.

Not to extend to Copyholds in certain Cases.

The Powers of Disposition given to a married Woman by this Act not to interfere with any other Powers.

LXXVIII. Provided always, and be it further enacted, That the Powers of Disposition given to a married Woman by this Act shall not interfere with any Power which, independently of this Act, may be vested in or limited or reserved to her, so as to prevent her from exercising such Power in any Case, except so far as by any Disposition made by her under this Act she may be prevented from so doing in Consequence of such Power having been suspended or extinguished by such Disposition.

Every Deed by a married Woman, not executed by her as Protector, to be acknowledged by her before a Judge, &c.

LXXIX. And be it further enacted, That every Deed to be executed by a married Woman for any of the Purposes of this Act, except such as may be executed by her in the Character of Protector for the sole Purpose of giving her Consent to the Disposition of a Tenant in Tail, shall, upon her executing the same, or afterwards, be produced and acknowledged by her as her Act and Deed before a Judge of one of the superior Courts at *Westminster*, or a Master in Chancery, or before Two of the Perpetual Commissioners, or Two Special Commissioners, to be respectively appointed as hereinafter provided.

The Judge, &c. before receiving such Acknowledgment, to examine her apart from her Husband.

LXXX. And be it further enacted, That such Judge, Master in Chancery, or Commissioners as aforesaid, before he or they shall receive the Acknowledgment by any married Woman of any Deed by which any Disposition, Release, Surrender, or Extinguishment shall be made by her under this Act, shall examine her, apart from her Husband, touching her Knowledge of such Deed, and shall ascertain whether she freely and voluntarily consents to such Deed, and unless she freely and voluntarily consent to such Deed shall not permit her to acknowledge the same; and in such Case such Deed

shall, so far as relates to the Execution thereof by such married Woman, be void.

As to the Appointment of Perpetual Commissioners for each County or Place, and the making out and keeping of the Lists of the Commissioners and the Delivery of Copies.

LXXXI. And be it further enacted, That for the Purpose of providing convenient Means of taking Acknowledgments by married Women of the Deeds to be executed by them as aforesaid, the Lord Chief Justice of the Court of Common Pleas at *Westminster* shall from Time to Time appoint such proper Persons as he shall think fit, for every County, Riding, Division, Soke, or Place for which there may be a Clerk of the Peace, to be Perpetual Commissioners for taking such Acknowledgments, and such Commissioners shall be removable by and at the Pleasure of the said Lord Chief Justice; and Lists of the Names of such Commissioners for the Time being, with the Names of their Places of Residence, and the Counties, Ridings, Divisions, Sokes, or Places for which they shall be respectively appointed to act, shall from Time to Time be made out and be kept by the Officer of the Court of Common Pleas at *Westminster* with whom the Certificates of the Acknowledgments by married Women are to be lodged as herein-after mentioned; and such Officer shall from Time to Time transmit, without Fee or Reward, to the Clerk of the Peace for each County, Riding, Division, Soke, or Place, or his Deputy, a Copy of the List to be so from Time to Time made out for that County, Riding, Division, Soke, or Place, anh sucd Officer shall deliver a Copy, signed by him, of the List for the Time being for any County, Riding, Division, Soke, or Place, to any Person applying for the same; and the Clerk of the Peace for each County, Riding, Division, Soke, or Place, or his Deputy, shall deliver a Copy, signed by him, of the List last transmitted to him as aforesaid to any Person applying for the same.

Power of Perpetual Commissioners not confined to any particular Place.

LXXXII. Provided always, and be it further enacted, That any Person appointed Commissioner for any particular County, Riding, Division, Soke, or Place, shall be competent to take the Acknowledgment of any married Woman wheresoever she may reside, and wheresoever the Lands or Money in respect of which the Acknowledgment is to be taken may be.

If, from being beyond Seas, &c. a married Woman be prevented from making the Acknowledgment, Special Commissioners to be appointed.

LXXXIII. And be it further enacted, That in those Cases where, by reason of Residence beyond Seas, or Ill-health, or any other sufficient Cause, any married Woman shall be prevented from making the Acknowledgment required by this Act before a Judge or a Master in Chancery, or any of the Perpetual Commissioners to be appointed as aforesaid, it shall be lawful for the Court of Common Pleas at *Westminster*, or any Judge of that Court, to issue a Commission specially appointing any Persons therein named to be Commissioners to take the Acknowledgment by any married Woman to be therein named of any such Deed as aforesaid: Provided always, that every such Commission shall be made returnable within such Time, to be therein expressed, as the said Court or Judge shall think fit.

When a married Woman shall acknowledge a Deed, the Person taking the Acknowledg-

LXXXIV. And be it further enacted, That when a married Woman shall acknowledge any such Deed as aforesaid, the Judge, Master in Chancery, or Commissioners taking such Acknowledgment shall sign a Memorandum, to be indorsed on or written at the Foot or in the Margin of such Deed, which Memorandum, subject to any Alteration

 which

ment to sign a Memorandum to the Effect here mentioned,

which may from Time to Time be directed by the Court of Common Pleas, shall be to the following Effect; *videlicet*,

'THIS Deed, marked [*here add some Letter or other Mark, for the Purpose of Identification,*] was this Day produced before me [*or* us] and acknowledged by therein named to be her Act and Deed; previous to which Acknowledgment the said was examined by me [*or* us], separately and apart from her Husband, touching her Knowledge of the Contents of the said Deed and her Consent thereto, and declared the same to be freely and voluntarily executed by her.'

and also sign a Certificate of the taking of such Acknowledgment to the Effect here mentioned.

And the same Judge, Master in Chancery, or Commissioners shall also sign a Certificate of the taking of such Acknowledgment, to be written or engrossed on a separate Piece of Parchment; which Certificate, subject to any Alteration which may from Time to Time be directed by the Court of Common Pleas, shall be to the following Effect; *videlicet*,

'THESE are to certify, That on the Day of in the Year One thousand eight hundred and before me the undersigned Sir *Nicholas Conyngham Tindal*, Lord Chief Justice of the Court of Common Pleas at *Westminster*, [*or* before me Sir *James Parke* Knight, one of the Justices of the Court of King's Bench at *Westminster*; *or* before me the undersigned *James William Farrer*, one of the Masters in Ordinary of the Court of Chancery; *or* before us *A. B.* and *C. D.* Two of the Perpetual Commissioners appointed for the for taking the Acknowledgments of Deeds by married Women, pursuant to an Act passed in the Year of the Reign of His Majesty King *William* the Fourth, intituled *An Act* [*insert the Title of this Act*]; *or* before us the undersigned *A. B.* and *C. D.* Two of the Commissioners specially appointed pursuant to an Act passed in the Year of the Reign of His Majesty King *William* the Fourth, intituled *An Act*, [*insert the Title of this Act,*] for taking the Acknowledgment of any Deed by the Wife of] appeared personally the Wife of and produced a certain Indenture, marked [*here add the Mark*], bearing Date the Day of and made between [*insert the Names of the Parties*], and acknowledged the same to be her Act and Deed: And I [*or* we] do hereby certify, that the said was, at the Time of her acknowledging the said Deed, of full Age and competent Understanding, and that she was examined by me [*or* us], apart from her Husband, touching her Knowledge of the Contents of the said Deed, and that she freely and voluntarily consented to the same.'

Certificate, with Affidavit verifying the same, to be lodged with some Officer of the Court of Common Pleas, who shall cause

LXXXV. And be it further enacted, That every such Certificate as aforesaid of the taking of an Acknowledgment by a married Woman of any such Deed as aforesaid, together with an Affidavit by some Person verifying the same, and the Signature thereof by the Party by whom the same shall purport to be signed, shall be lodged with some Officer of the Court of Common Pleas at *Westminster*, to be appointed as herein-after mentioned; and such Officer shall examine the Certificate, and see that it is duly signed, either by some Judge or

Master in Chancery, or by Two Commissioners appointed pursuant to this Act, and duly verified by Affidavit as aforesaid, and shall also see that it contains such Statement of Particulars as to the Consent of the married Woman as shall from Time to Time be required in that behalf; and if all the Requisites in this Act in regard to the Certificate shall have been complied with, then such Officer shall cause the said Certificate and the Affidavit to be filed of Record in the said Court of Common Pleas.

the same to be filed of Record in the Court.

LXXXVI. And be it further enacted, That when the Certificate of the Acknowledgment of a Deed by a married Woman shall be so filed of Record as aforesaid, the Deed so acknowledged shall, so far as regards the Disposition, Release, Surrender, or Extinguishment thereby made by any married Woman whose Acknowledgment shall be so certified concerning any Lands or Money comprised in such Deed, take effect from the Time of its being acknowledged, and the subsequent filing of such Certificate as aforesaid shall have relation to such Acknowledgment.

On filing Certificate, the Deed, by relation, to take effect from Time of Acknowledgment.

LXXXVII. And be it further enacted, That the Officer of the Court of Common Pleas with whom such Certificates as aforesaid shall be lodged shall make and keep an Index of the same, and such Index shall contain the Names of the married Women and their Husbands alphabetically arranged, and the Dates of such Certificates and of the Deeds to which the same shall respectively relate, and such other Particulars as shall be found convenient; and every such Certificate shall be entered in the Index as soon as may be after such Certificate shall have been filed.

The Officer with whom the Certificates are lodged to make an Index of the same.

LXXXVIII. And be it further enacted, That after the filing of any such Certificate as aforesaid the Officer with whom the Certificate shall be lodged shall at any Time deliver a Copy, signed by him, of any such Certificate to any Person applying for such Copy; and every such Copy shall be received as Evidence of the Acknowledgment of the Deed to which such Certificate shall refer.

Officer to deliver a Copy of Certificate filed, which shall be Evidence.

LXXXIX. And be it further enacted, That the Lord Chief Justice of the Court of Common Pleas at *Westminster* shall from Time to Time appoint the Person who shall be the Officer with whom such Certificates as aforesaid shall for the Time being be lodged, and may remove him at pleasure; and the Court of Common Pleas at *Westminster* shall also from Time to Time make such Orders and Regulations as the Court shall think fit touching the Mode of Examination to be pursued by the Commissioners to be appointed under this Act, and touching the particular Matters to be mentioned in such Memorandums and Certificates as aforesaid, and the Affidavits verifying the Certificates, and the Time within which any of the aforesaid Proceedings shall take place, and touching the Amount of the Fees or Charges to be paid for the Copies to be delivered by the Clerks of the Peace or their Deputies, or by the Officer of the said Court, as herein-before directed, and also of the Fees or Charges to be paid for taking Acknowledgments of Deeds and for examining married Women, and for the Proceedings, Matters, and Things required by this Act to be had, done, and executed for completing and giving effect to such Acknowledgments and Examinations.

Chief Justice of Common Pleas to appoint the Officer with whom the Certificates shall be lodged; and the Court to make Orders touching the Examination, Memorandums, Certificates, Affidavits, &c.

XC. And

A married Woman to be separately examined on the Surrender of an equitable Estate in Copyholds as if such Estate were legal.

XC. And be it further enacted, That in every Case in which a Husband and Wife shall, either in or out of Court, surrender into the Hands of the Lord of a Manor any Lands held by Copy of Court Roll, Parcel of the Manor, and in which she alone, or she and her Husband in her Right, may have an equitable Estate, the Wife shall, upon such Surrender being made, be separately examined by the Person taking the Surrender in the same Manner as she would have been if the Estate to which she alone, or she and her Husband in her Right, may be entitled in such Lands were an Estate at Law instead of a mere Estate in Equity; and every such Surrender, when such Examination shall be taken, shall be binding on the married Woman and all Persons claiming under her; and all Surrenders heretofore made of Lands similarly circumstanced, where the Wife shall have been separately examined by the Person taking the Surrender, are hereby declared to be good and valid.

Court of Common Pleas in the Case of a Husband being lunatic, &c. may dispense with his Concurrence, except where the Lord Chancellor or other Persons intrusted with Lunatics, or the Court of Chancery, shall be the Protector of a Settlement in lieu of the Husband.

XCI. Provided always, and be it further enacted, That if a Husband shall in consequence of being a Lunatic, Idiot, or of unsound Mind, and whether he shall have been found such by Inquisition or not, or shall from any other Cause be incapable of executing a Deed, or of making a Surrender of Lands held by Copy of Court Roll, or if his Residence shall not be known, or he shall be in Prison, or shall be living apart from his Wife, either by mutual Consent or by Sentence of Divorce, or in consequence of his being transported beyond the Seas, or from any other Cause whatsoever, it shall be lawful for the Court of Common Pleas at *Westminster*, by an Order to be made in a summary Way upon the Application of the Wife, and upon such Evidence as to the said Court shall seem meet, to dispense with the Concurrence of the Husband in any Case in which his Concurrence is required by this Act or otherwise; and all Acts, Deeds, or Surrenders to be done, executed, or made by the Wife in pursuance of such Order, in regard to Lands of any Tenure, or in regard to Money subject to be invested in the Purchase of Lands, shall be done, executed, or made by her in the same Manner as if she were a Feme Sole, and when done, executed, or made by her shall (but without Prejudice to the Rights of the Husband as then existing independently of this Act) be as good and valid as they would have been if the Husband had concurred: Provided always, that this Clause shall not extend to the Case of a married Woman where under this Act the Lord High Chancellor, Lord Keeper or Lords Commissioners for the Custody of the Great Seal, or other the Person or Persons intrusted with the Care and Commitment of the Custody of the Persons and Estates of Persons found lunatic, idiot, and of unsound Mind, or His Majesty's High Court of Chancery, shall be the Protector of a Settlement in lieu of her Husband.

Ireland.

XCII. And be it further enacted, That this Act shall not extend to *Ireland*, except where the same is expressly mentioned.

Act may be altered this Session.

XCIII. And be it further enacted, That this Act, or any Part thereof, may be altered, varied, or repealed by any Act or Acts to be passed in the present Session of Parliament.

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