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CAP. XLII.

An Act to amend the Law relating to the Landlord's Right of Hypothec in *Scotland*, in so far as respects Land held for Agricultural or Grazing Purposes. [15th *July* 1867.]

WHEREAS it is expedient to amend the Law relating to the Landlord's Right of Hypothec in *Scotland*, in so far as respects Land held for Grazing or Agricultural Purposes:

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Act to apply only to Scotland, and Short Title.

1. This Act shall apply only to *Scotland*, and may be cited for all Purposes by the Title of the "Hypothec Amendment (*Scotland*) Act, 1867."

Act to apply only to Land held for Farming Purposes;

save as respects Register of Sequestrations.

2. This Act shall be construed as applying only to Farms or Land with the Buildings thereon occupied for Farming Purposes, and shall not apply to Dwelling Houses, Shops, and other Subjects, though the same may be in rural Districts, where the primary or chief Purpose of the Occupation shall be other than the raising of Agricultural Produce or the raising and rearing of Live Stock, saving and excepting always the Provision herein-after contained for the keeping of a Register of Sequestrations which shall be held as applicable to all Sequestrations for Rent whether of rural or urban Subjects.

Corn, &c. purchased bonâ fide,

3. Whensoever any Agricultural Produce shall have been *bonâ fide* purchased by any Person for its fair marketable Value from

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and delivered and removed, to be free from Hypothec.

the Tenant or Lessee of any Farm or Lands, and shall have been actually delivered to the Purchaser, and removed from such Farm or Lands, and the Price thereof shall have been paid, or whensoever Agricultural Produce shall have been *bonâ fide* purchased at Public Auction from the Tenant or Lessee, or any Party holding his Authority so to sell, after Seven Days written Notice of the Intention of the Tenant or Lessee, or Party holding his Authority to sell by Public Auction, shall have been given to the Landlord or Lessor, or Person or Persons entitled to the Rent of such Farm or Land, or his or their Factor or known Agent, and Sequestration shall not have been obtained and registered in manner herein-after provided previous to or during the Currency of such Notice, then in either of these Cases all Right of Hypothec competent to the Landlord, Lessor, or Person or Persons entitled to the Rent of such Farm or Lands over such Agricultural Produce shall cease and determine: Provided always, that nothing herein contained shall apply to any Agricultural Produce which the Tenant is not entitled legally or by the Terms of his Lease to sell or carry off the Land, or which previous to the Completion of the Purchase thereof by the Removal of the same from the Farm or Lands, and by Payment of the Price, or after such Notice as that above referred to, has been sequestrated at the Instance of such Landlord, Lessor, or other Person, and the Sequestration whereof has been registered in the Register of Sequestrations for Rent, to be kept as herein-after provided, and is in force at the Time of such Purchase.

Hypothec not to be available beyond Three Months after Rent is payable.

4. In the event of the Landlord, Lessor, or Person entitled to the Rent of any Farm or Lands failing to commence Proceedings for making effectual by Sequestration his Right of Hypothec within Three Calendar Months after the conventional Term at which the Year's Rent or the last Portion due thereof is made payable under the Terms of the Lease, Writing, or Bargain under which such Farm or Lands are possessed, or if no conventional Term for Payment of the Rent or any Portion thereof has been agreed upon then within Three Calendar Months after the legal Term at which such Year's Rent or the last Portion due thereof is payable, then all Right of Hypothec for the Rent or Portion thereof payable at such Term, conventional or legal, shall cease and determine: Provided always, that the Provisions of this Section shall not apply to the Landlord's Right of Hypothec, or to his Right to use Sequestration for Rent payable under any Lease, Writing, or Bargain current at the Date of the passing of this Act.

Stock of Third Party taken on a Farm to graze to be liable only to the Amount of Consideration payable for the grazing.

5. In the event of the Tenant or Lessee of any Farm or Lands having received and taken thereon to be grazed or fed any Sheep, Cattle, or other Live Stock belonging to any other Person, and having agreed with the Owner of the same for a *bonâ fide* Payment equal to the just Value of such grazing or feeding, such Sheep, Cattle, or Stock shall be liable to the Hypothec of the Landlord, Lessor, or Person entitled to the Rent of the Farm or Lands to the Extent of the Amount of such Payment, and no further: Provided

Provided always, that so long as any Portion of such Sheep, Cattle, or other Live Stock shall remain on the Farm or Lands, the Hypothec over such Portion shall continue to the full Extent of the Payment originally agreed upon for the grazing or feeding of the whole of such Sheep, Cattle, or other Live Stock; and that in the event of the Removal of the Sheep, Cattle, or other Live Stock, or any Portion thereof, from the Farm or Lands, the Right of Hypothec shall, so long as the Payment or any Part thereof shall remain unpaid, continue to apply to such Sheep, Cattle, or other Live Stock to the Extent of the Amount of the Payment, or such Part thereof as shall be unpaid.

When Agricultural Produce or Stock is sequestrated, incompetent to sequestrate Furniture, Implements, imported Manures, &c.

6. In the Sequestration for the Rent of any Farm or Lands, as defined by this Act, it shall not be competent to include any Household Furniture or Furnishings or any Agricultural Implements, nor shall it be competent, except as herein-after provided, to sequestrate for the Rent any imported Manure, Lime, Drain Tiles, Feeding Stuffs, or other Material, not being the Produce of or made upon the Farm or Lands, and not at the Time incorporated with the Soil or consumed or otherwise applied to the Purposes for which such Material may have been procured: Provided always, that where Manure of any Kind, or Lime, or Drain Tiles, Feeding Stuffs, or other Material have been brought upon the Farm or Lands for the Purpose of being used thereon in fulfilment of any specific Obligation imposed by the Lease, such Manure, Lime, Drain Tiles, Feeding Stuffs, or other Material may competently be included among the sequestrated Effects: Provided also, that nothing herein contained shall be held as affecting either the Right of using Sequestration or the Description of Articles which may be sequestrated, in so far as respects Premises and Occupations of Buildings or of Lands to which this Act does not apply.

Register of Sequestrations for Rent to be kept.

7. At each Sheriff's or other Court where Sequestration for Rent is or may be granted a Register, entitled the "Register of Sequestrations for Rent" for the particular Court, shall be kept by the Sheriff Clerk, Sheriff Clerk Depute, or other Officer of Court having Custody of the Records thereof, in the Form set forth in the Schedule appended hereto, or as nearly in that Form as may be, and on the granting of any Sequestration for Rent there shall be forthwith entered in such Register the Name or Names of the Tenant or Lessee whose Agricultural Produce, Live Stock, or Effects are sequestrated, and the several Particulars detailed in the Schedule appended hereto; and every Person shall be entitled, on Payment of a Fee of One Shilling, to search the said Register during Office Hours of every Day on which the Office of the Sheriff Clerk, Sheriff Clerk Depute, or other Officer of Court having the Custody thereof shall be open; and all such Fees shall be duly accounted for and shall be paid by the Sheriff Clerk, Sheriff Clerk Depute, or other Officer receiving the same to the Credit of Her Majesty's Exchequer at such Times and in such Manner as the Commissioners of Her Majesty's Treasury shall from Time to Time direct.

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SCHEDULE referred to in the foregoing Act.

REGISTER of SEQUESTRATIONS for Rent for the County of _____

Name and Residence of Tenant or Lessee whose Produce, Stock, or Effects are sequestrated.	Date of Sequestration.	Name or Description of rural or urban Subjects.	Rent for which Sequestration granted.	Date when payable.	Landlord or Person taking out Sequestration.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1867.