CHAPTER 71.

An Act to amend the Law respecting the administration of the Personal Estate and the Escheat of the Real Estate of Deceased Persons; and for other purposes.

[14th August 1884.]

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:

Short title.

1. This Act may be cited as the Intestates Estates Act, 1884.

Recovery of personal estate of deceased person where administration granted to nominee of the Crown.

2. Where the administration of the personal estate of any deceased person is granted to a nominee of Her Majesty (whether the Treasury Solicitor, or a person nominated by the Treasury Solicitor, or any other person), any action or other proceeding by or against such nominee for the recovery of the personal estate of such deceased person, or any share thereof, shall be of the same character, and be brought, instituted, and carried on in the same manner, and be subject to the same rules of law and equity (including the rules of limitation under the statutes of limitation or otherwise), in all respects as if the administration had been granted to such nominee as one of the next of kin of such deceased person.

Limitation on proceedings to recover personal estate by or from Crown.

3. After the passing of this Act an information or other proceeding on the part of Her Majesty shall not be filed or instituted, and a petition of right shall not be presented, in respect of the personal estate of any deceased person or any part or share thereof, or any claim thereon, except within the same time and subject to the same rules of law and equity in and subject to which an action for the like purpose might be brought by or against a subject.

Escheat of real estate.

4. From and after the passing of this Act, where a person dies without an heir and intestate in respect of any real estate consisting of any estate or interest whether legal or equitable in any incorporeal hereditament, or of any equitable estate or interest in any corporeal hereditament, whether devised or not devised to trustees by the will of such person, the law of escheat shall apply in the same manner as if the estate or interest above mentioned were a legal estate in corporeal hereditaments.

Power of court to sell interest of Crown in real estate.

5.—(1.) Where in any action or other proceeding in Her Majesty's High Court of Justice or in the Court of Chancery of the County Palatine of Lancaster it appears to the court that Her Majesty is entitled to any hereditament, corporeal or incorporeal, or to any estate or interest, legal or equitable, therein, such court may, on the application or with the consent of the Attorney-General, notwithstanding that no office has been found and no commission issued or executed, order a sale of the hereditament, estate, or interest, and such portion of the net proceeds of any such sale as represents the interest of Her Majesty shall be paid, invested, transferred, sold, or disposed of in manner provided by section four of the Treasury Solicitor Act, 1876.

39 & 40 Vict. c. 18.

(2.) Section one of the Act of the session of the fifteenth and sixteenth years of the reign of Her present Majesty, chapter fifty-five, intituled "An Act to extend the provisions of the Trustee Act,

1850," shall apply on any such sale in like manner as if any estate or interest of Her Majesty comprised in the sale were vested in a subject.

Power to waive right of Crown in certain cases. See 59 G. 3. c. 94.

6. Where a person dies without an heir and intestate in respect of all or any part of his real estate, whether his estate or interest therein is legal or equitable, and application is made for the waiver of any right of Her Majesty in respect of such intestacy to such estate by or on behalf of any person to whom, or to a trustee for whom, Her Majesty would, if Her Majesty's title had been duly found by inquisition, have power to grant such real estate, it shall be lawful for Her Majesty, by warrant under the hands of the Commissioners of Her Majesty's Treasury, or any two of them, to authorise the waiver of such right, on such terms, whether for the payment of money or otherwise, as may be specified in the warrant, and the Treasury Solicitor may, in pursuance of such warrant, convey to the person in whose favour such waiver is made the right of Her Majesty so waived: Provided, that if at any time not later than two years after such conveyance any person claiming any estate or interest in or to the said real estate demands that an inquisition in respect of Her Majesty's title shall be issued, and gives security to the satisfaction of the Treasury Solicitor for the costs of the issue and execution of such inquisition, such inquisition shall issue in like manner as if this section had not been enacted.

If no such inquisition issues, such conveyance shall be of the same effect as if it were a grant from Her Majesty after office found; and every person bringing an action to establish any claim to such real estate, or any part thereof, or interest therein, shall be in the same position and have the same rights as if he were traversing such office found.

Definition of intestacy.

7. Where any beneficial interest in the real estate of any deceased person, whether the estate or interest of such deceased person therein was legal or equitable, is, owing to the failure of the objects of the devise, or other circumstances happening before or after the death of such person, in whole or in part not effectually disposed of, such person shall be deemed, for the purposes of this Act, to have died intestate in respect of such part of the said beneficial interest as is ineffectually disposed of.

Application of Act to Duchy of Lancaster.

8. This Act shall extend to the Duchy of Lancaster, with this addition, that the Chancellor of the Duchy, the Attorney-General of the Duchy, and the Solicitor of the Duchy respectively, shall be substituted for the Commissioners of Her Majesty's Treasury, the Attorney-General, and the Treasury Solicitor respectively, and that the proceeds of any sale shall be applicable and be dealt with to all intents and purposes as such proceeds would or might have been applied or dealt with if the hereditaments, estate, or interest had been sold under or in pursuance of any other power in that behalf.

Application of Act to Ireland.

9. In the application of this Act to Ireland the following provisions shall take effect:

(*a.*) The Crown and Treasury Solicitor for Ireland shall be substituted for the Treasury Solicitor.

(*b.*) The reference to the Treasury Solicitor Act, 1876, shall not apply. The portion of the net proceeds of any sale under

this Act which represents the interest of Her Majesty in the hereditament, estate, or interest sold shall be dealt with and disposed of in such manner as the Commissioners of Her Majesty's Treasury may by general or special order from time to time direct.

(*c.*) Her Majesty's High Court of Justice in Ireland and the Attorney-General for Ireland shall be substituted for the High Court of Justice and the Attorney-General.

10. This Act shall not extend to Scotland. Extent of Act.

CHAPTER 72.

An Act for preventing the erection of Buildings on Disused Burial Grounds. [14th August 1884.]

WHEREAS an Act was passed in the session of Parliament holden in the fifteenth and sixteenth years of Her Majesty, chapter eighty-five, to amend the laws concerning the burial of the dead in the metropolis, and an Act was passed in the session holden in the sixteenth and seventeenth years of Her Majesty, chapter one hundred and thirty-four, "to amend the laws con- "cerning the burial of the dead in England, beyond the limits of "the metropolis, and to amend the Act concerning the burial of "the dead in the metropolis": And whereas in pursuance of the provisions of the above recited Acts numerous Orders in Council have been made for the discontinuance of burials in certain burial grounds within the metropolis and elsewhere: And whereas it is expedient that no buildings should be erected on any burial ground affected by any of such Orders in Council:

15 & 16 Vict. c. 85. 17 Vict. c. 134.

Be it therefore 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:

1. This Act may be cited as the Disused Burial Grounds Act, 1884. Short title.

2. In this Act a "disused burial ground" shall mean a burial ground in respect of which an Order in Council has been made for the discontinuance of burials therein in pursuance of the provisions of the said recited Acts. Interpretation clause.

3. After the passing of this Act it shall not be lawful to erect any buildings upon any disused burial ground, except for the purpose of enlarging a church, chapel, meeting house, or other places of worship. No buildings to be erected upon disused burial grounds, except for enlargement, &c.

4. Nothing in this Act shall prevent the erection of any building on a disused burial ground for which a faculty has been obtained before the passing of this Act. Saving for buildings already sanctioned.

5. Nothing in this Act contained shall apply to any burial ground which has been sold or disposed of under the authority of any Act of Parliament. Saving of burial grounds sold by Act of Parliament.