

ANNO VICESIMO PRIMO & VICESIMO SECUNDO

VICTORIÆ REGINÆ.

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CAP. CV.

An Act to amend an Act of the Thirteenth and Fourteenth Years of Her present Majesty, to amend the Laws concerning Judgments in *Ireland*. [2d *August* 1858.]

WHEREAS by an Act passed in the Session of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled *An Act to amend the Laws concerning Judgments in* Ireland, it was enacted, that the Provisions thereinbefore recited of the Acts of the Sixth Year of King *William* the Fourth and the Fourth Year of Her Majesty should not in anywise extend or be applicable to any Judgment entered up in any of Her Majesty's Superior Courts at *Dublin*, or obtained in any Inferior Court of Record, after the passing of the said Act, nor to any Decree, Order, or Rule made after the passing of the said Act, and no Writ of Elegit or Writ of Execution (save as therein-after mentioned) should issue or be sued upon any such Judgment, Decree, Order, or Rule, against any Lands, Tenements, or Hereditaments, or any Estate or Interest therein, nor should any Lands, Tenements, or Hereditaments, or any Estate or Interest, be charged or affected by any such Judgment, Decree, Order, or Rule, save as provided by the said Act: And whereas it was thereby further enacted, that where any Judg- 13 & 14 Vict. c. 29.

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ment should be entered up after the passing of the said Act in any of Her Majesty's Superior Courts at *Dublin*, or any Decree or Order in any Court of Equity, Rule in any Court of Common Law, or Order in Bankruptcy or Lunacy, to which the Effect of a Judgment in One of the Superior Courts of Common Law is given by the said Act of the Fourth Year of Her Majesty, should be made, after the passing of the said Act, or any Judgment, Rule, or Order should be obtained or made in or by any Inferior Court of Record, after the passing of the said Act, and should, under the Provisions of the Act of the Fourth Year of Her Majesty, therein recited, be removed into One of Her Majesty's Superior Courts of Record at *Dublin*, and the Creditor under any such Judgment, Decree, Order, or Rule should know or believe that the Person against whom such Judgment, Decree, Order, or Rule to be entered up, obtained, or made is seised or possessed, at Law or in Equity, of any Lands, Tenements, or Hereditaments of any Nature or Tenure, or has any disposing Power over any such Lands, Tenements, or Hereditaments which he might without the Assent of any other Person exercise for his own Benefit, and that where any Judgment had been entered up before the passing of the Act hereby recited in any of Her Majesty's Superior Courts of *Dublin*, or any Decree or Order in any Court of Equity, Rule in any Court of Common Law, or Order in Bankruptcy or Lunacy, to which the Effect of a Judgment in One of the Superior Courts of Common Law is given by the said Act of the Fourth Year of Her Majesty, had been made before the passing of the now recited Act, or any Judgment, Rule, or Order had been obtained or made in or by any Inferior Court of Record before the passing of the now recited Act, and had been or should be, under the Provisions of the said Act of the Fourth Year of Her Majesty, removed into One of Her Majesty's Superior Courts at *Dublin*, and the Creditor, under any such Judgment, Decree, Order, or Rule, should know or believe that the Person against whom such Judgment, Decree, Order, or Rule might have been entered up, obtained, or made is seised or possessed as aforesaid over any Lands, Tenements, or Hereditaments which by virtue of the now recited Act are exempted from being taken in Execution under any Writ of Execution to be issued upon such Judgment, Decree, Order, or Rule, it should be lawful for such Creditor, at any Time, and from Time to Time, after the entering up or Removal of such Judgment in or into such Superior Court, or the making of such Decree, Order, or Rule, or the passing of the now recited Act, whichever should last happen, to make and file in the Superior Court in, by, or into which such Judgment, Rule, or Order might have been entered up, made, or removed, or in the Court of Equity by which such Decree or Order might have been made, or in case of such Order in Bankruptcy or Lunacy as aforesaid in the Court of Chancery in *Ireland*,

Ireland, an Affidavit stating the Name or Title of the Cause or Matter, and the Court in which such Judgment, Decree, Order, or Rule might have been entered up, obtained, or made, and the Date of such Judgment, Decree, Order, or Rule, and the Names, and the usual or last known Place of Abode, and the Title, Trade, or Profession of the Plaintiff (if there be such), and of the Defendant or Person whose Estate is intended to be affected by the Registration, as therein-after mentioned, of such Affidavit, and the Amount of the Debt, Damages, Costs, or Monies recovered or ordered to be paid by such Judgment, Decree, Order, or Rule, and stating that to the best of the Knowledge and Belief of the Deponent the Person against whom such Judgment, Decree, Order, or Rule might have been entered up, obtained, or made is at the Time of the swearing of such Affidavit so seised or possessed or has such disposing Power as aforesaid of or over such Lands, Tenements, or Hereditaments, and that such Affidavit should specify the County and Barony, or the Town or County of a City and Parish, or the Town and Parish, in which the Lands to which the Affidavit relates are situate, and where such Lands lie in Two or more Counties or Baronies, or Parishes or Streets, or partly in one Barony, Parish, or Street, and partly in another, the same should be distinctly stated in such Affidavit; and that it should be lawful for the Creditor making such Affidavit to register the same in the Office for registering Deeds, Conveyances, and Wills in *Ireland*, by depositing in such Office an Office Copy of such Affidavit, and that such Copy should be numbered and transcribed, and be entered in the Book and Indexes kept in the said Office, in like Manner as if the same were a Memorial of a Deed; and for the Purpose of such Entries the Creditors under such Judgment, Decree, Order, or Rule should be deemed the Grantee, and the Debtor thereunder should be deemed the Grantor, and the Amount of the Debt, Damages, Costs, or Monies recovered or ordered to be paid thereby should be deemed the Consideration; and the like Fees should be paid on such Registration as in the Case of registering a Memorial of a Deed: And whereas it was thereby further enacted, that the Registration as aforesaid of such Affidavit should operate to transfer to and vest in the Creditor registering such Affidavit all the Lands, Tenements, and Hereditaments mentioned therein, for all the Estate and Interest of which the Debtor mentioned in such Affidavit should at the Time of such Registration be seised or possessed, at Law or in Equity, or might at such Time create, by virtue of any disposing Power which he might then without the Assent of any other Person exercise for his own Benefit, but subject to Redemption on Payment of the Money owing on the Judgment, Decree, Order, or Rule mentioned in such Affidavit; and that such Creditor, and all Persons claiming through or under him, should, in respect of such Lands, Tenements, and Hereditaments, or such Estate

Estate or Interest therein as aforesaid, have all such Rights, Powers, and Remedies whatsoever as if an effectual Conveyance, Assignment, Appointment, or other Assurance to such Creditor of all such Estate or Interest, but subject to Redemption as aforesaid, had been made, executed, and registered at the Time of registering such Affidavit: And whereas for the Purposes of Registration under the said recited Act a Form of Affidavit has been generally adopted which purports to verify on Oath the Seisin or Possession and the Description of the Lands to be affected by such Registration, in manner directed by the said recited Act, but in which the Name or Title of the Cause or Matter, and the Court in which such Judgment, Decree, Order, or Rule has been entered up, obtained, or made, and the Date of such Judgment, Decree, Order, or Rule, and the Names, and the usual or last known Place of Abode, and the Title, Trade, or Profession of the Plaintiff (if there be such), and of the Defendant or Person whose Estate is intended to be affected by the Registration of such Affidavit, and the Amount of the Debt, Damages, Costs, or Monies recovered or ordered to be paid by such Judgment, Decree, Order, or Rule, or some One or more of such Facts, appear or have been stated, recited, or referred to on the Face of such Affidavit, without being covered by a Verification on Oath: And whereas the Validity of Registration upon Affidavits in such Form has been questioned: And whereas the Omission to verify such Facts upon Oath has been general, and, unless some legislative Remedy be applied to such Cases, might lead to Confusion and Injustice if such Objections should be ultimately decided as valid: And whereas all Persons who have searched the said Registry must have had full Notice of such Facts, so far as same have been truly stated: 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:

Power to Creditor to file supplemental Affidavit as to certain Matters.

I. That wherever it shall appear that any of such Facts appear or have been so stated, recited, or referred to on the Document so registered as an Affidavit under the said recited Act before the passing of this Act, but are not included in or under the Verification on Oath therein contained, it shall and may be lawful for the Creditor under any such Judgment, Decree, Order, or Rule, or for any Person entitled, whether legally or equitably, to the Sum payable in respect of the same, or any Part thereof, or for any Person who would then be entitled to register an Affidavit of such Judgment, Decree, Order, or Rule so theretofore sought to be registered as aforesaid, on or before the First Day of *July* One thousand eight hundred and fifty-nine, to make and file, in addition to the original Affidavit in the Court in which such original Affidavit shall have been filed, a supplemental Affidavit

Affidavit verifying any such Fact or Facts so theretofore stated, recited, or referred to as aforesaid: Provided that in every supplemental Affidavit the Description and Residence or last known Place of Abode of the Defendant or Defendants as then known or existing shall be stated, and such Statement shall be deemed and taken as if the Description and Abode of the Defendant or Defendants had been verified in the original Affidavit to which such new Affidavit shall be supplemental, and to cause an Office Copy of such supplemental Affidavit to be attached to the Copy of the original Affidavit so previously deposited in reference to the same Judgment, Decree, Order, or Rule, which the Officer of the said Registry is hereby authorized and directed to do, on being paid the like Fees or Stamp Duty as are payable on the Registration of an Affidavit under the said recited Act; and such supplemental Affidavit, when so registered, shall have the like Operation and Effect as if the Facts so verified by same had been verified on Oath in such original Affidavit filed in respect of the same Judgment, Decree, Order, or Rule: Provided always, that nothing in this Act contained shall prejudice the Right or Title of any Person who shall previously to the passing thereof have obtained the Decision of any of Her Majesty's Superior Courts of Law at *Dublin* as to the Sufficiency or Validity of the Registration or the Priority of any Judgment, Decree, Order, or Rule already registered; but every such Judgment already registered shall entitle the Person by whom such Decision has been obtained, his Executors, Administrators, and Assigns, to the same Rights and Benefits to which he would have been entitled if this Act had not passed; so, nevertheless, that no Person claiming the Benefit of this Proviso shall be entitled to avail himself of this Act or the Powers hereby given for the Purpose of supplying any Defect in the Registration of such Judgment.

Effect of supplemental Affidavit.

II. No Title to Lands purchased under a Judicial Sale thereof heretofore made, in any Cause or Matter at the Suit of any Person or Persons, in respect of a Judgment, Decree, Order, or Rule, shall be impeached or affected by reason of such Defect as aforesaid in the Form of Affidavit founded on such Judgment, Decree, Order, or Rule, and registered in manner aforesaid, and no supplemental Affidavit shall be necessary to render the Registration thereof valid; provided that nothing herein contained shall operate to give Validity to any Registration under the said recited Act, where the original Affidavit filed for such Purpose shall have omitted to verify the Fact of the Seisin or Possession, or the Description of the Lands against which the Registration was intended to operate, in the Manner directed by the said recited Act; and provided also, that nothing herein contained shall affect the Validity of any Payment in full or Part Discharge of any such Judgment, Decree, Order, or Rule heretofore made.

Defect in Affidavit not to invalidate Titles under Judicial Sales.

Supplemental Affidavit not to supply or cure Omissions.

No Payment to be invalid for Defect.

Affidavits to be made by Agents, &c.

III. In the Construction of the said recited Act and this Act, the Word "Creditor" shall mean and include any Number of Persons jointly interested as Creditors in relation to such Judgment, Decree, Rule, or Order, and shall also mean and include all Joint Stock Banking and other Companies and Corporate Bodies; and every Affidavit or Oath necessary to be made by any Creditor may be made by any One or more of such Persons so jointly interested, the public Officer authorized to sue or be sued or to make Oaths on behalf of such Joint Stock Company, or by the Secretary, Deputy Secretary, or Law Agent of any Corporate Body; and in any Affidavit made or to be made by any such Public Officer, Secretary, Deputy Secretary, or Law Agent, a Description of the Town or Place where the Business or principal Office of such Joint Stock Company or Corporate Body is carried on or situated shall be deemed to be a sufficient Description of the usual Place of Abode of the Deponent, within the Meaning of the said recited Act; and where by the said recited Act or this Act any Creditor by Judgment, Decree, or Order is authorized to file an Affidavit or supplemental Affidavit as aforesaid, and where, from the Absence of such Creditor or other reasonable Cause, such Affidavit cannot be made by such Creditor, it may be made by such Person as the Court shall direct.

Registration not invalid though Affidavit be made by only One Conusee.

IV. No Registration of any Judgment shall be deemed invalid by reason of the Affidavit directed by the said first-recited Act or this Act being or having been made by One only of several Conusees.

Subscription by Registrar of Memorandum of Satisfaction of Judgment to operate as a Retransfer to the Debtor.

V. And whereas by the Ninth Section of the said recited Act of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty it was enacted, that, upon the Lodgment in the Office for registering Deeds, Conveyances, and Wills therein mentioned of the Certificate of the Entry of Satisfaction upon the Roll of any Judgment, or the Certificate of any Decree, Rule, or Order having been performed, complied with, or satisfied, the Registrar of the said Office should, where an Affidavit had been registered under the said Act in respect of such Judgment, Decree, Rule, or Order, cause a Memorandum of Satisfaction thereof to be subscribed to the Entry of such Affidavit in the Books kept at the said Office, but no Provision was therein made for revesting the legal Estate in the Lands, Tenements, and Hereditaments in the said Affidavit mentioned, in the Debtor in the said Act mentioned, and consequently such legal Estate remains still outstanding in the Creditor in the said Act mentioned, although the Debt due to him shall have been fully paid off: Be it enacted, That when and so soon as such Subscription of a Memorandum of Satisfaction of any Judgment shall be

be so made to the Entry of any Affidavit which shall have been registered in manner authorized by said Ninth Section of said recited Act, such Registration shall thereupon be deemed and taken as null and void and otherwise as if no such Registration had been effected; and the legal or other Estate in the Lands affected by such Registration shall without any further Deed, Conveyance, or Assurance be and thereby become vested in the Person or Persons in whom such legal or other Estate would have been then vested if no such Registration had been theretofore effected.

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