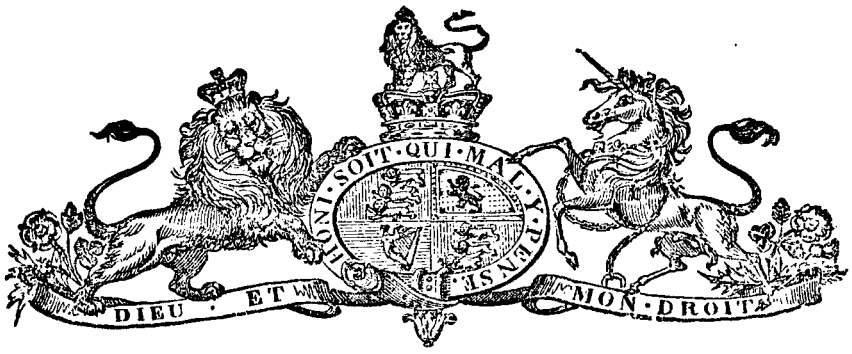


ANNO VICESIMO OCTAVO & VICESIMO NONO

VICTORIÆ REGINÆ.

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CAP. CI.

An Act for authorizing Transferable Debentures to be charged upon Land in *Ireland*.

[5th *July* 1865.]

WHEREAS it is expedient to authorize the Creation of Transferable Debentures to be charged upon Land in Ireland: 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:

Extent of Act.

1. This Act shall apply to *Ireland* only.

Short Title.

2. In any Act of Parliament, Document, or Proceeding, this Act shall be sufficiently designated as "The Land Debentures (*Ireland*) Act, 1865."

Interpretation of Terms.

3. In the Construction of this Act, and of this Section thereof, the following Words and Expressions shall have the Meanings hereby assigned to them respectively, unless there be something in the Subject or Context requiring a different Construction:

The Word "Court" means the Landed Estates Court of *Ireland*:

The

The Word "Certificate" means a Certificate declaring Land chargeable with Debentures under this Act:

The Word "Debenture" means a Debenture charged upon Land under this Act:

The Word "Person" extends to and includes a Body Politic or Corporate, whether aggregate or sole, and any Company as well as a private Individual, and includes also the Assignees of any Bankrupt or Insolvent:

The Word "Possession" includes the Receipt of Rents and Profits:

The Word "Land" includes and extends to Lands, Tenements, and Hereditaments held in Fee Simple or Fee-farm, also impropriate Rentcharges in lieu of Tithe, and other perpetual Rentcharges or Annuities and Fee-farm Rents issuing out of Land in Ireland, whether subject or not subject to any Incumbrance:

The Words "recorded Land" mean any Land the Title to which shall be recorded under the "Record of Title Act (*Ireland*), 1865:"

The Word "Owner," as applied to Land or recorded Land, means the Person or Persons entitled for his or their own Benefit, at Law or in Equity, in possession, to a Fee Simple, Fee-farm, or perpetual Interest in any Land or recorded Land as above defined:

The Word "Incumbrance" means any legal or equitable Charge by Mortgage, Lien, Judgment, Decree, Rule, or Order, Crown Bond, Recognizance, Legacy, Portion, Trust, or otherwise, whereby any Sum of Money is secured upon or made payable out of any Land, and includes also any Easement, and any Rentcharge, Annuity, or other annual or periodical Charge or Payment, except only Quit and Crown Rents, Rentcharges in lieu of Tithe, and Charges imposed by any Act for the Drainage or Improvement of Land:

And the Word "Incumbrancer" means any Person entitled to an Incumbrance, or to require the Payment, Discharge, or Benefit thereof.

Court may certify Land to be chargeable with Debentures.

4. It shall be lawful for the Owner of any recorded Land to apply to the Court to have such Land declared chargeable with Debentures under this Act. Thereupon the Court shall investigate the Title to the Land, and its existing State and Circumstances. If upon such Investigation it appear proper to grant the Application, as to the whole or any Part of the Land, the Court shall certify to that Effect, and shall cause an Entry of such Certificate to be made in its Books, in such Form as it may deem fit.

5. After

Owner of Land may issue Debentures with Sanction of Court.

5. After the Entry of such Certificate it shall be lawful for the Owner of the Land described therein, at any Time and from Time to Time, to issue Debentures under this Act pursuant to such Certificate, on satisfying the Court that no just Rights of other Parties which have accrued since the Date of the Certificate will be injuriously affected thereby. The Sanction of the Court to the Issue of any Debenture shall be signified in such Manner as the Court may by any General Order authorize for that Purpose.

Form and Effect of Debenture.

6. A Debenture, when issued under the Sanction of the Court, shall be well charged upon the Land described in the Certificate under which it is issued.

All Debentures shall be in such Form as the Court may approve of; for such Sums of Money, bearing Interest at such Rate or Rates, or not bearing Interest, and payable or redeemable at such Time or Times, not being less than Six Months nor more than Ten Years from the Date of the Certificate, as to the Court may seem fit.

Transfer of Debentures.

7. Before sanctioning the Issue of any Debenture the Court shall cause an Entry thereof to be made in its Books. After the Issue of any Debenture under the Sanction of the Court the Owner of the Land charged therewith may transfer such Debenture, by means of a Memorandum to that Effect entered in the Books of the Court. Every Transferee of a Debenture may also transfer it by means of a Memorandum in the Books of the Court. The Transfer shall be in such Form as the Court may approve of. It shall vest in the Person to whom it is made the Ownership of the Debenture, and all Rights of Action or Suit which the Transferor had at the Time of such Transfer. Every Debenture shall be for a Sum of not less than Fifty Pounds, and shall specify the Place where the Principal and Interest shall be payable.

Coupons.

8. A Debenture may have annexed to it Coupons, entitling the Bearer to the Interest payable in respect thereof. The Payment to the Bearer of any Coupon of the Amount expressed therein shall be a full Discharge to the Person paying the same of all Liability in respect of the Coupon and the Interest represented thereby.

Debentures on unincumbered Land.

9. In the Case of unincumbered Land no Debenture shall be charged for such a Principal Sum as, either solely or together with the Amount of the Principal Sum or Sums charged on the same Land by virtue of any other Debenture or Debentures, shall be more than Ten Times the Sum which may appear to the Court to be the yearly Value of such Land, not exceeding, in any Case, the Value fixed by the Public Valuation of Lands in *Ireland*, having regard, amongst

amongst other Matters, to any Lease then affecting the same; nor shall there be reserved by any Debenture upon such unincumbered Land Interest of such annual Amount as, either solely or together with the annual Interest reserved and charged by any other Debenture or Debentures upon the same Land, shall exceed One Half of what may appear to the Court to be its yearly Value as aforesaid.

Debentures on incumbered Land.

10. If the Charge proposed to be created by Debenture is to be puisne or subject to any other Incumbrance the Court shall have regard thereto, and shall estimate such other Incumbrance at its full Value; and shall so limit the Debentures which it may think fit to issue, that their Amount shall be as amply secured as Debentures would be if charged on unincumbered Land to an Amount not exceeding Ten Times the yearly Value thereof.

Priority of Debentures.

11. Debentures upon any Land shall be puisne and subject to the several Incumbrances specified or referred to in the Certificate; also to Quit or Crown Rents, to Rentcharges in lieu of Tithe, and to Charges imposed by any Act heretofore made for the Drainage or Improvement of Land. With those Exceptions, all Debentures charged upon any Land shall be the First Incumbrances thereon. Where there shall be more than One Debenture charged on the same Land there shall be no Priority as between the several Debentures, notwithstanding any Priority in the Date or Number thereof.

Debentures mutilated or injured.

12. In case any Debenture shall be given up to the Court in a mutilated or injured State, it shall be lawful for the Court to cancel such Debenture, and to sanction the Issue in its place of a new Debenture, on such Terms and the Payment of such Fees as the Court may consider just.

Debentures destroyed or lost.

13. In case it shall be proved to the Satisfaction of the Court that any Debenture was destroyed or lost, it shall be lawful for the Court to sanction the Issue in its place of a Duplicate Debenture, marked as such, on such Terms and the Payment of such Fees as the Court may consider just; but without Prejudice to the Rights of any Holder of the original Debenture, by whom it may afterwards be actually produced. Such Duplicate Debenture shall be transferable by Entry only in the Books of the Court.

Limitation of Principal and Interest.

14. Every Debenture shall be deemed a Sum of Money charged upon Land within the Meaning of Sections Forty and Forty-two of the Act of the Third and Fourth Years of the Reign of King *William* the Fourth, Chapter Twenty-seven, intituled *An Act for the*

the Limitation of Actions and Suits relating to Real Property, and for simplifying the Remedies for trying the Rights thereof, and shall be subject to the Periods of Limitation prescribed by those Sections as to Principal and Interest respectively.

Debentures, Personal or Real Estate.

15. Every Debenture, when vested in any Person other than the Owner of the Land charged therewith, shall be deemed Personal Estate; and when vested in the Owner of the Land, shall be deemed Real Estate.

Debenture to be a Charge by way of Mortgage.

16. A Debenture shall be deemed to be a Charge by way of Mortgage, and the Money payable under a Debenture a Mortgage Debt within the Operation of the Act passed in the Seventeenth and Eighteenth Years of the Queen, intituled *An Act to amend the Law relating to the Administration of the Estates of deceased Persons.*

Provision as to the Payment of Money into Court.

17. On the Application of the Owner of the Land charged with any Debenture, and on being satisfied by Affidavit or otherwise that the Principal Money has remained unpaid for Thirty Days by reason of Failure on the Part of the Debenture Holder to receive Payment, or that there is other proper Ground for the Application, the Court may, if and on such Terms as it shall think fit, order that the Applicant be at liberty, within Seven Days or such other Time as it shall consider reasonable, to pay the Principal due and the Interest up to the Date of such Payment into the Bank of *Ireland*, to the Account of such Matter as the Court may direct, with the Name of the Owner of the Land, but in trust to attend the Orders of the Court.

The Payment of the Money into Bank pursuant to such Order shall, as regards the Owner of the Land, be deemed a Payment by him to the Holder of the Debenture.

Trusts affecting Debentures.

18. The Land charged, or the Owner thereof, shall not be affected by any Trust affecting a Debenture, or by any Notice whatever of such Trust; but the Party entitled to the Benefit of such Trust may nevertheless proceed to establish the same as against the Holder of the Debenture.

When Interest due, Application may be made for Sale.

19. The Owner of any Debenture to whom any Interest shall remain due for the Term of One Month after the Time appointed for the Payment thereof shall be at liberty to apply to the Court for a Sale of the Land charged with such Debenture.

Option to be paid out of Sale.

20. The Court shall thereupon give to the Holder of every Debenture the Option either to have the Sum due for Principal and Interest

Interest on his Debenture paid out of the Proceeds of the Sale, according to the Priority of his Demand, or to have the Interest only paid, and to permit the Principal to remain a Charge on the unsold Lands until the Time appointed by the Debenture for Payment of the Principal.

Indemnity to Trustees as to Option.

21. If the Owner of any over-due Debenture shall be a Trustee, he shall not be deemed guilty of a Breach of Trust, nor be accountable for the Manner in which he may exercise such Option.

When Debenture due, Application may be made for Sale.

22. The Owner of any Debenture which shall remain unpaid at the Time appointed by such Debenture for Payment of the Principal thereof may apply to the Court for a Sale of the Land charged therewith.

On Consent, new Debenture may be issued.

23. In case the Owner of any Debenture, and the Owner of the Land charged therewith, shall so consent, it shall be lawful for the Court to sanction the Issue of a new Debenture in place of such over-due Debenture, which new Debenture shall bear such Interest and shall be payable at such Time as shall be therein expressed.

Indemnity to Trustees as to Consent.

24. If the Owner of any over-due Debenture shall be a Trustee, he shall not be deemed guilty of a Breach of Trust by reason of his giving or withholding his Consent to the Acceptance of such new Debenture.

Owner of over-due Debenture refusing new one, may be paid off by Owner of Land.

25. In case the Owner of any over-due Debenture shall refuse to accept a new Debenture in lieu thereof, the Owner of the Land charged therewith may pay off the same, and apply to the Court to sanction the Issue of a new Debenture in lieu thereof.

If Owner of Land under Disability, Court may appoint Guardian.

26. If the Owner of any Land shall be under any Disability, the Court may appoint a Guardian *ad litem* for such Owner; and the Consent and Directions of such Guardian shall have the same Effect as if the Owner had been under no Disability, and had given such Consent or Directions.

Court may dismiss Proceedings on Payment.

27. The Court shall have Authority to dismiss any Proceeding upon Payment of Interest and Costs, or on such further or other Terms as it may deem equitable.

Debenture Holder to have no Claim on Court or Public Funds.

28. Under no Circumstances shall the Holder of a Debenture have any Claim whatever upon the Court, or upon any Public Funds, in respect of any Mistake or Omission relating to the Value, Quality, or Title of or to the Estate, or otherwise howsoever.

29. Within

Stamp Duties.

29. Within the Meaning of the several Acts in force relating to Stamps, a Certificate under this Act shall be deemed to be a Deed not specifically charged nor expressly exempted: A Debenture shall be deemed to be a Mortgage made as a Security for the Amount of the Principal Money thereby secured, and a Transfer of a Debenture shall be deemed to be a Transfer of a Mortgage.

Provided that no Debenture shall be transferred by means of a Memorandum in the Books of the Court until it shall have been stamped with the Amount of Stamp Duty applicable in the Case of Mortgages given by Public Companies, as mentioned in the Fourteenth Section of the Act of the Sixteenth and Seventeenth Years of the Reign of Her present Majesty, Chapter Fifty-nine.

Court may frame Forms and Rules.

30. The Court may frame and promulgate all such Forms, Rules, and Directions as it shall consider requisite or expedient for the Assistance and Guidance of Persons acting under this Act; for annulling Certificates; for regulating the Transfer of Debentures; for calling in or cancelling Debentures, and for the Issue of others, in case of Forgery, Abstraction, Destruction, Defacement, or other like Inconvenience; for the giving of Notices; and generally for facilitating or regulating the Course of Procedure, or giving effect to the Purposes and Provisions of this Act.

General Powers.

31. The Court shall also have the same or the like Powers and Authorities for the Purposes of this Act as it has for those of the Act or Acts of Parliament under which it is at present constituted, as well in relation to the Appointment or Removal and to the Salaries of necessary Officers, as also to the making of General Orders, the Conduct or Costs of Proceedings, the Production of Documents or Examination of Witnesses, and to any other Matter requisite for effecting the Objects of this Act.

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