ANNO OCTAVO & NONO

VICTORIÆ REGINÆ.

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C A P. CVI.

An Act to amend the Law of Real Property. [4th *August* 1845.]

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; (that is to say,)

Repeal of so much of 7 & 8 Vict. c. 76. as abolishes contingent Remainders as from the Commencement;

I. That so much of an Act passed in the last Session of Parliament, intituled *An Act to simplify the Transfer of Property*, as enacted that, after the Time at which that Act should come into operation, no Estate in Land should be created by way of contingent Remainder; but that every Estate which, before that Time, would have taken effect as a contingent Remainder should take effect (if in a Will or Codicil) as an executory Devise, and (if in a Deed) as an executory Estate of the same Nature, and having the same Properties, as an executory Devise; and that contingent Remainders existing under Deeds, Wills, or Instruments, executed or made before the Time when that Act should come into operation, should not fail, or be destroyed or barred, merely by reason of the Destruction or Merger of any preceding Estate, or its Determination by any other Means than the natural Efluxion of the Time of such preceding Estate, or some Event on which it was in its Creation limited to determine, shall be and is hereby repealed, as from the Time of the

and the Residue as from 1st Oct. 1845.

Commencement and taking effect thereof; and that the Residue of the said Act shall be and is hereby repealed, as from the First Day of *October* One thousand eight hundred and forty-five.

The immediate Freehold of corporeal Tenements to lie in Grant as well as in Livery. Stamp Duty on Grants thereof.

II. That, after the said First Day of *October* One thousand eight hundred and forty-five, all corporeal Tenements and Hereditaments shall, as regards the Conveyance of the immediate Freehold thereof, be deemed to lie in Grant as well as in Livery; and that every Deed which, by force only of this Enactment, shall be effectual as a Grant, shall be chargeable with the Stamp Duty with which the same Deed would have been chargeable in case the same had been a Release, founded on a Lease or Bargain and Sale for a Year, and also with the same Stamp Duty (exclusive of progressive Duty) with which such Lease or Bargain and Sale for a Year would have been chargeable.

Feoffments, Partitions, Exchanges, Leases, Assignments, and Surrenders required (subject to certain Exceptions) to be by Deed.

III. That a Feoffment, made after the said First Day of *October* One thousand eight hundred and forty-five, other than a Feoffment made under a Custom by an Infant, shall be void at Law, unless evidenced by Deed; and that a Partition, and an Exchange, of any Tenements or Hereditaments, not being Copyhold, and a Lease, required by Law to be in Writing, of any Tenements or Hereditaments, and an Assignment of a Chattel Interest, not being Copyhold, in any Tenements or Hereditaments, and a Surrender in Writing of an Interest in any Tenements or Hereditaments, not being a Copyhold Interest, and not being an Interest which might by Law have been created without Writing, made after the said First Day of *October* One thousand eight hundred and forty-five, shall also be void at Law, unless made by Deed: Provided always, that the said Enactment so far as the same relates to a Release or a Surrender shall not extend to *Ireland*.

Feoffments not to operate by Wrong, nor Exchanges or Partitions to imply any Condition, or give and grant any Covenant.

IV. That a Feoffment, made after the said First Day of *October* One thousand eight hundred and forty-five, shall not have any tortious Operation; and that an Exchange, or a Partition, of any Tenements or Hereditaments, made by Deed, executed after the said First Day of *October* One thousand eight hundred and forty-five, shall not imply any Condition in Law; and that the Word "give" or the Word "grant," in a Deed, executed after the same Day, shall not imply any Covenant in Law, in respect of any Tenements or Hereditaments, except so far as the Word "give" or the Word "grant" may, by force of any Act of Parliament, imply a Covenant.

Strangers may take immediately under an Indenture, and a Deed purporting to be an Indenture shall take effect as such.

V. That, under an Indenture, executed after the First Day of *October* One thousand eight hundred and forty-five, an immediate Estate or Interest, in any Tenements or Hereditaments, and the Benefit of a Condition or Covenant, respecting any Tenements or Hereditaments, may be taken, although the Taker thereof be not named a Party to the same Indenture; also, that a Deed, executed after the said First Day of *October* One thousand eight hundred and forty-five, purporting to be an Indenture, shall have the Effect of an Indenture although not actually indented.

VI. That

Contingent and other like Interests, also Rights of Entry, made alienable by by Deed, saving Estates in Tail; and as regards married Women enjoining conformity to 3 & 4 W. 4. c. 74.

VI. That, after the First Day of *October* One thousand eight hundred and forty-five, a contingent, an executory, and a future Interest, and a Possibility coupled with an Interest, in any Tenements or Hereditaments of any Tenure, whether the Object of the Gift or Limitation of such Interest or Possibility be or be not ascertained, also a Right of Entry, whether immediate or future, and whether vested or contingent, into or upon any Tenements or Hereditaments in *England*, of any Tenure, may be disposed of by Deed; but that no such Disposition shall, by force only of this Act, defeat or enlarge an Estate Tail; and that every such Disposition by a married Woman shall be made conformably to the Provisions, relative to Dispositions by married Women, of an Act passed in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance*, or in *Ireland* of an Act passed in the Fourth and Fifth Years of the Reign of His said late Majesty, intituled *An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance, in* Ireland.

4 & 5 W. 4. c. 92

Capacity of Married Women to disclaim Estates or Interests by Deed extended to England.

VII. That, after the First Day of *October* One thousand eight hundred and forty-five, an Estate or Interest in any Tenements or Hereditaments in *England*, of any Tenure, may be disclaimed by a married Woman by Deed; and that every such Disclaimer shall be made conformably to the said Provisions of the said Act for the Abolition of Fines and Recoveries and for the Substitution of more simple Modes of Assurance.

Contingent Remainders protected as from 31 Dec 1844, against the premature Failure of a preceding Estate.

VIII. That a contingent Remainder, existing at any Time after the Thirty-first Day of *December* One thousand eight hundred and forty-four, shall be, and, if created before the passing of this Act, shall be deemed to have been, capable of taking effect, notwithstanding the Determination, by Forfeiture, Surrender, or Merger, of any preceding Estate of Freehold in the same Manner, in all respects, as if such Determination had not happened.

When the Reversion on a Lease is gone the next Estate to be deemed the Reversion.

IX. That when the Reversion expectant on a Lease, made either before or after the passing of this Act, of any Tenements or Hereditaments, of any Tenure, shall, after the said First Day of *October* One thousand eight hundred and forty-five, be surrendered or merge, the Estate which shall for the Time being confer as against the Tenant under the same Lease the next vested Right to the same Tenements or Hereditaments, shall, to the Extent and for the Purpose of preserving such Incidents to, and Obligations on, the same Reversion, as, but for the Surrender or Merger thereof, would have subsisted, be deemed the Reversion expectant on the same Lease.

Act not to extend to Scotland.

X. That this Act shall not extend to *Scotland*.

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