sale" to the end of the sub-section, as regards all sales heretofore and hereafter made under the provisions thereof: Provided that upon any such sale it shall be lawful for the guardians to obtain such security as they may think sufficient for the payment of the price of the seed sold.

CHAPTER 8.

An Act to make better provision for the Recovery of Tithe Rentcharge in England and Wales. [26th March 1891.]

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:

Liability of owner to pay tithe rentcharge, and modification of contracts with tenants.

1.—(1.) Tithe rentcharge as defined by this Act issuing out of any lands shall be payable by the owner of the lands, notwithstanding any contract between him and the occupier of such lands, and any contract made between an occupier and owner of lands, after the passing of this Act, for the payment of the tithe rentcharge by the occupier shall be void.

(2.) Where the occupier is liable under any contract made before the passing of this Act to pay the tithe rentcharge, then he shall cease to be bound by that part of his contract, but he shall be liable to pay to the owner such sum as the owner has properly paid on account of the tithe rentcharge which such occupier is liable under his said contract to pay, exclusive of any costs incurred or paid by the owner in respect of such tithe rentcharge, and every receipt given for such sum shall state expressly that the sum is paid in respect of that tithe rentcharge: Provided that where the lands, out of which any tithe rentcharge issues, are occupied by several occupiers who have contracted to pay the tithe rentcharge, any of such occupiers shall be liable only to pay such proportion of the sum paid by the owner of the lands on account of that tithe rentcharge as the rateable value of the lands occupied by him bears to the rateable value of the whole of the lands occupied by such occupiers.

(3.) Such sum shall be recoverable from the occupier by distress in like manner as is provided by sections eighty-one and eighty-five of the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, and the enactments amending those sections, and not otherwise.

Recovery of tithe rentcharge through county court.

2.—(1.) Where any sum due on account of tithe rentcharge issuing out of any lands is in arrear for not less than three months, the person entitled to such sum may, whatever is the amount, apply to the county court of the district in which the lands or any part thereof are situate, and the county court, after such service on the owner of the lands as may be prescribed, and after hearing such owner if he appears and desires to be heard, may order that the said sum, or such part thereof as appears to the court to be due, be,

together with the costs, recovered in manner provided by this Act, and tithe rentcharge as defined by this Act shall not be recovered in any other manner.

(2.) Where it is shown to the court that the lands are occupied by the owner thereof, the order shall be executed by the appointment by the court of an officer who, subject to the direction of the court, shall have the like powers of distraint for the recovery of the sum ordered to be paid as are conferred by the Tithe Acts on the owner of a tithe rentcharge for the recovery of arrears of tithe rentcharge, and no greater or other powers; and if there is no sufficient distress the person entitled to the sum ordered to be recovered may proceed to obtain possession of the lands under section eighty-two of the Tithe Act, 1836.

6 & 7 Will. 4. c. 71.

(3.) In any other case the order shall be executed by the appointment by the court of a receiver of the rents and profits of the lands, and of any other lands which would be liable to be distrained upon for the tithe rentcharge to which the order refers under the provisions of section eighty-five of the Tithe Act, 1836, and where any of such lands are held at one rent together with other lands in another parish, the court shall apportion the rent between the said lands and the lands in the other parish in proportion to their rateable value, in which case the payment of such apportioned rent by the occupier to the receiver shall in every respect, as between the occupier and the owner of the lands, be deemed to be a payment on account of the total rent payable to the owner of such lands.

(4.) Subject to the prescribed regulations, the county court shall have the same powers over receivers as in any other case, and may confer on the person appointed receiver any powers which the court can confer upon persons appointed receivers, but the court shall not have power to order the sale of the lands.

(5.) Any sum ordered by the court under this section to be recovered shall be payable by a trustee in bankruptcy, sheriff, or officer of a court who is in possession of the lands, in like manner as if it were tithe rentcharge recoverable under the Tithe Acts.

(6.) Where the occupier of the lands out of which the tithe rentcharge issues is liable under any contract made before the passing of this Act to pay the tithe rentcharge, and is consequently liable by virtue of this Act to pay the amount thereof to the owner of the lands, the owner of the lands shall serve notice of such liability on the owner of the tithe rentcharge, and thereupon, before an order under this section is made, there shall be such service on the occupier in addition to the owner as may be prescribed, and a hearing of such occupier if he appears and desires to be heard. Any owner of the lands who fails to serve such notice as aforesaid on the owner of the tithe rentcharge, shall not be entitled to recover from the occupier any sum which he has paid on account of tithe rentcharge as aforesaid, unless and until he has, after notice to the occupier of his application for the same, obtained from the county court a certificate that there was good and sufficient cause for the failure to give such notice, and that the occupier has not been prejudiced thereby.

(7.) Rules under this Act may regulate the procedure practice and costs under this Act in county courts, and may direct what service

shall be good service for the purposes of this Act on the owner or occupier of any lands or the owner of any tithe rentcharge, and may provide that, if the owner of any lands is not known, any proceeding under this Act may be taken against the owner of the lands without naming the person who is the owner.

(8.) The fees payable on the proceedings under this section shall not exceed those set forth in the schedule to this Act, and the fees, charges, and expenses in or incidental to any distress under this Act shall be the same as are for the time being payable under the Law of Distress Amendment Act, 1888. 51 & 52 Vict. c. 21.

(9.) Nothing in this Act shall impose or constitute any personal liability upon any occupier or owner of lands for the payment of any tithe rentcharge, or any other sum recoverable or payable under this Act, and the court shall not, by virtue of this Act, or of the County Courts Act, 1888, have any power to imprison any such occupier or owner by reason only of the nonpayment of such tithe rentcharge or other sum, and shall in any other case have no other or greater powers of fine or imprisonment than are conferred by the County Courts Act, 1888. 51 & 52 Vict. c. 43.

3.—(1.) The Lord Chancellor may, after consultation with the Rule Committee of County Court Judges, make rules for carrying this Act into effect, and for regulating, providing, and prescribing any matter authorised by this Act to be regulated, provided, or prescribed by rules under this Act. In framing such rules regard shall be had to making the procedure as simple and inexpensive as is practicable. Rules.

(2.) Every rule under this Act shall be laid before each House of Parliament within forty days next after it is made, if Parliament is then sitting, or, if not, within forty days after the commencement of the then next ensuing session, and if an address is presented to Her Majesty by either House of Parliament within the next subsequent forty days on which the said House shall have sat, praying that any such rule may be annulled, Her Majesty may thereupon, by Order in Council, annul the same; and the rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

4. Where a receiver appointed under this Act of the rents and profits of any lands satisfies the county court that the lands are let on such terms as not to reserve a rent sufficient to enable the receiver to recover from the owner thereof the sum ordered to be recovered, the court, after such service on the owner and occupier of the lands as may be prescribed, and after hearing such owner and occupier if they appear and desire to be heard, may direct that the order for such recovery shall be executed as if the occupier were the owner of the lands: Provided that any such occupier shall be entitled in addition to any other remedy, unless he would have been liable to pay the tithe rentcharge under any contract made before the passing of this Act, to deduct from any sums at any time becoming due from him to the landlord under whom he holds, any amount which shall have been recovered from him under this Lands occupied rent free, &c.

section in respect of tithe rentcharge or costs, with interest thereon at the rate of four per centum per annum: Provided further, that such occupier shall be entitled, notwithstanding anything in this Act, to recover from such landlord by action at law any such amount which shall have been recovered from him under this section as aforesaid as money paid on the account of such landlord.

Restrictions as to costs.

5.—(1.) An application to a county court for an order under this Act may be made on behalf of the tithe owner by his agent, although not a solicitor.

(2.) On any application to a county court for an order under this Act, no costs either of a solicitor or of a witness shall be allowed in any case where the amount claimed is paid without further proceedings, nor where notice of intention to apply for time to pay the tithe owner's claim has been given (except in cases where costs could be allowed by the court on a judgment summons), and when notice of opposition has been given within the prescribed time, the costs of a solicitor shall only be allowed for work done subsequent to the notice.

Rating of owner of tithe rentcharge.

6.—(1.) Any rate to which tithe rentcharge is subject shall be assessed on and may be recovered from the owner of the tithe rentcharge, in the like manner and by the like process as on and from any occupying ratepayer; and so much of any Act as authorises any rate on tithe rentcharge to be assessed on or recovered from the occupier of any lands out of which the tithe rentcharge issues is hereby repealed.

(2.) If the collector of the rate satisfies the county court that he is unable to recover in manner aforesaid any rate assessed on the owner of any tithe rentcharge, the court may, after such service on the owners of the tithe rentcharge, and of the lands out of which the tithe rentcharge issues, as may be prescribed, and after hearing such owners, if they appear and desire to be heard, order the owner of the lands to pay such tithe rentcharge to the collector until the amount of the rate, and any costs allowed by the court, are fully paid; and the order may be executed as if it were an order under this Act for the payment of a sum due on account of the tithe rentcharge.

(3.) The court may, if satisfied that the circumstances justify it, make such order as aforesaid in respect of any future rate, either generally or during the time limited by the order.

(4.) The expression "rate" in this section means a poor rate, highway rate, general district rate, borough rate, and every other rate assessed on an owner of tithe rentcharge by a public authority for public purposes; and the expression "collector" means the overseer, surveyor of highways, rate-collector, or other person authorised, for the time being, to collect the rate.

Power of appeal.

7. If any party in any action or matter under this Act shall be dissatisfied with the determination or direction of the judge of the county court in point of law or equity, or upon the admission or rejection of any evidence, the party aggrieved by the judgment, direction, decision, or order of the judge may appeal from the same to the High Court, in such manner and subject to such conditions

as may be for the time being provided by the rules of the Supreme Court regulating the procedure on appeals from inferior courts to the High Court.

Remission of tithe rentcharge when exceeding two-thirds annual value of land. 16 & 17 Vict. c. 34.

8.—(1.) Where a sum is claimed on account of tithe rentcharge issuing out of any lands, and the county court is satisfied that, if the sum claimed is paid, the total amount paid on account of the tithe rentcharge for the period of twelve months next preceding the day on which the sum claimed became payable, will exceed two-thirds of the annual value of the lands as ascertained and entered in the assessment for the purpose of Schedule B. to the Income Tax Act, 1853, or as certified as herein-after mentioned, the court shall order the remission of so much, whether the whole or part of the sum claimed, as is equal to the excess, and the amount so ordered to be remitted shall not be recoverable; and if the court is satisfied that neither such remission, nor the liability thereto, has been taken into account in estimating the rateable value of the tithe rentcharge, the court may remit such amount of any then current rate assessed on the owner of the tithe rentcharge as appears to the court to be proportionate to the amount of the remission of tithe rentcharge.

(2.) Where the lands out of which any tithe rentcharge issues are assessed for the purposes of the said Schedule B. together with other lands, the surveyor of taxes for the parish in which the lands are so assessed, on the application of the owner or occupier of the lands, shall divide the annual value in such assessment between the lands out of which any tithe rentcharge issues and the other lands, and give notice of the annual value of the lands as determined on such division to the applicant and to the owner of the tithe rentcharge; and if either of them is dissatisfied with the annual value so determined, he may appeal to the general commissioners of income tax for the division in which the lands are assessed, and those commissioners, after due notice to and hearing the parties or their agents if any of them wishes to be so heard, shall finally determine the proper division of the annual value; and the annual value of lands so determined as aforesaid shall, for the purposes of this section, be the annual value of the lands as ascertained for the purpose of the said Schedule B.

(3.) For the purposes of this section the owner of tithe rentcharge shall have the same right of appeal as the owner of lands, whether under the enactments relating to the said assessment or under this section.

(4.) If in any case the annual value of any lands is not ascertained and entered in the assessment for the purpose of the said Schedule B., the general commissioners of income tax for the division in which the lands are situate shall, on the application of the owner or occupier of the lands, ascertain the annual value of the lands for the purpose of the said Schedule B., and inform the applicant of the same.

(5.) The commissioners of taxes shall on demand and payment of one shilling give a certificate of the amount of the annual value of any lands under this section.

(6.) Where it appears from any award that a special apportionment has been made in pursuance of section fifty-eight of the Tithe Act, 1836, whereby tithe rentcharge has been charged specially upon certain closes of land in different proportions, and to the exclusion of certain of them, the court shall not grant a remission under this section unless satisfied that the applicant would have been entitled to such remission if no such special apportionment had been made.

6 & 7 Will. 4. c. 71.

(7.) Where two or more tithe rentcharges issue out of the same lands, and a remission of tithe rentcharge has been made by a county court under this section, the amount paid by the owner of the lands on account of tithe rentcharge shall be divided between the owners of such tithe rentcharges in proportion to the amount thereof as fixed by the apportionment or any altered apportionment.

(8.) This section shall not apply to any lands other than those used solely for agricultural or pastoral purposes or for the growth of timber or underwood.

Definitions.

9.—(1.) A reference in this Act to the "owner" of lands or tithe rentcharge,—

(*a*) if the ownership of the lands or rentcharge is vested in the Queen in right of Her Crown, means the Commissioners of Woods, in substitution for the Queen; and

(*b*) if the ownership of the lands or rentcharge is vested in the Duke of Cornwall, means the keeper of the records of the Duchy of Cornwall, in substitution for the Duke of Cornwall; and

(*c*) in any other case, means the same officers or persons as are mentioned in the Tithe Act, 1836.

6 & 7 Will. 4. c. 71., ss. 12, 13.

(2.) In this Act, unless the context otherwise requires,—

The expression "tithe rentcharge" means tithe rentcharge issuing out of lands and payable in pursuance of the Tithe Acts, and includes any rentcharge into which a corn rent has, either before or after the passing of this Act, been converted under the Tithe Act, 1860, and which is subject to the like incidents as such tithe rentcharge as aforesaid; but does not include a rentcharge payable under the Extraordinary Tithe Redemption Act, 1886, nor a rentcharge payable under the Tithe Act, 1860, in respect of the tithes on any gated or stinted pasture, nor a sum or rate payable for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common.

23 & 24 Vict. c. 93.

49 & 50 Vict. c. 54.

23 & 24 Vict. c. 93.

The expression "prescribed" means prescribed by rules under this Act.

Commencement and application of Act and saving.

10.—(1.) This Act shall extend to every sum on account of tithe rentcharge which first becomes payable on or after the half-yearly day of payment of such tithe rentcharge which occurs next after the passing of this Act, whether such sum accrued before or after that day, and shall not extend to sums due on account of tithe rentcharge which were in arrear before the passing of this Act, nor, except so far as relates to the assessment and recovery of rates, shall it extend to tithe rentcharge issuing out of the lands of a railway company.

(2.) A sum on account of tithe rentcharge shall not be recoverable under this Act unless proceedings for such recovery have been commenced before the expiration of two years from the date at which it became payable.

(3.) Nothing in this Act shall alter the priority of any tithe rentcharge in relation to any other charge or incumbrance upon any lands.

(4.) Any enactment in the Tithe Acts or in the Extraordinary Tithe Redemption Act, 1886, directing any expenses, rentcharge, or other sums to be recovered as tithe rentcharge, shall, as respects any sum becoming due after the passing of this Act, be construed to refer to the recovery of tithe rentcharge under this Act, save that the owner of the lands shall not be entitled to obtain any remission under this Act.

Repeal.

11. Section eighty-four of the Tithe Act, 1836, is hereby repealed.

Extent of Act and short titles.

12.—(1.) This Act shall not extend to Scotland or Ireland.

(2.) This Act may be cited as the Tithe Act, 1891.

(3.) The Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, intituled "An Act for the commutation of tithes in England and Wales," is in this Act referred to and may be cited as the Tithe Act, 1836, and that Act and the enactments amending the same passed before the passing of this Act are in this Act referred to and may be cited as the Tithe Acts.

(4.) The Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter ninety-three, intituled "An Act to amend and further extend the Acts for the "commutation of Tithes in England and Wales," is in this Act referred to and may be cited as the Tithe Act, 1860.

(5.) The Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter thirty-four, intituled "An Act for granting to Her Majesty duties on profits "arising from property, professions, trades, and offices," is in this Act referred to and may be cited as the Income Tax Act, 1853.

SCHEDULE.

Fees under Section 2 of the Tithe Act, 1891.

Where the sum claimed does not exceed five pounds:

For notice of application to the court - - -	One shilling.
For making the order - - -	One shilling and sixpence.

Where the sum claimed exceeds five pounds:

For notice of application to the court - -	One shilling for every five pounds and fraction above five pounds or any multiple of five pounds of the sum claimed.
For making the order -	One shilling and sixpence for every five pounds and fraction above five pounds or any multiple of five pounds of the sum claimed.

But the total fee in any one case shall not exceed—

For notice of the application - - - -	Ten shillings.
For making the order - - - -	Fifteen shillings.