CAP. XLV.

An Act to further amend The Settled Estates Act of 1856. [14th *July* 1864.]

'WHEREAS by the Tenth Section of the Act passed in the Parliament holden in the Nineteenth and Twentieth Years of Her Majesty's Reign, intituled *An Act to facilitate Leases and Sales of Settled Estates*, it was enacted, that when the Court of Chancery should deem it expedient that any general Powers of leasing any Settled Estates, conformably to the said Act, should be vested in Trustees, it might, by Order, vest any such Power accordingly either in the existing Trustees of the Settlement or in any other Persons, and that in every such Case the Court, if it should think fit, might impose any Conditions as to Consents or otherwise on the Exercise of such Power: And whereas, in order to protect the Interests of Persons interested in the Settled Estates affected by such Powers, the Practice of the said Court has been to require that Leases granted in pursuance of a Power vested in any Trustees or other Persons, under the Provisions of the said Tenth Section of the said Act, should be settled by the said Court or by a Judge thereof, or otherwise should be made conformable with a model Lease deposited in the Chambers of the Judge: And whereas the Introduction of such a Condition has been found to occasion Delay and Expense, and so to create great Difficulties in carrying into execution the Objects of the Act, and such Conditions may in general be safely omitted, and it is therefore expedient that the said Act should be amended as herein-after mentioned:' 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: 19 & 20 Vict. c. 120.

1. In Orders to be hereafter made under the said Tenth Section for vesting any Powers of leasing in any Trustees or other Persons, no Condition shall be inserted requiring that the Leases thereby authorized should be submitted to or be settled by the said Court or a Judge thereof, or be made conformable with a model Lease deposited in the Judge's Chambers, save only in any Case in which the Parties applying for the Order may desire to have any such Condition inserted, or in which it shall appear to the Court that there is some special Reason rendering the Insertion of such a Condition necessary or expedient. Conditions that Leases shall be settled by the Court not to be inserted in Orders under Sect. 10. of recited Act.

2. In all Cases of Orders already made in pursuance of the said Tenth Section, in which any such Condition as aforesaid has been inserted, it shall be lawful for any Party interested to apply to the Court to alter and amend such Order, by striking out such Condition, and the Court shall have full Power to alter the same accordingly, and the Order so altered shall have the same Validity as if it had originally been made in its altered State; but nothing herein contained shall make it obligatory on the Court to act under this Clause in any Case in which from the Evidence which was before it when the Order sought to be altered was made, or from any other Evidence, it shall appear to the Court that there is any special Reason why in the Case in question such a Condition is necessary or expedient. Conditions already inserted may be struck out by Court.

3. 'And whereas Doubts are entertained whether in the Construction of the First Section of the said Act the Court is bound by the State of Facts existing at the Period of the Settlement taking effect, or by the State of Facts at the Time of an Application to the Court under the said Act, and it is desirable that such Doubts should be removed:' Be it enacted, That the said Court, in determining what are Settled Estates within the said Act, shall be governed by the State of Facts and by the Trusts or Limitations of the Settlement at the Time of the said Settlement taking effect. Removal of Doubts as to Construction of Sect. 1. of recited Act.

4. This Act shall be construed and dealt with as Part of the said former Act as amended by the Act of the Twenty-first and Twenty-second Years of Her Majesty's Reign, Chapter Seventy-seven, and all Proceedings under this Act shall be subject to the same Rules and Orders, and shall be conducted in the same Manner, as Proceedings under the said former Acts. Act to be construed with recited Act.

5. This Act shall extend to *Ireland*, but not to *Scotland*. Extent of Act.