

ANNO QUARTO & QUINTO

GULIELMI IV. REGIS.

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CAP. XXIII.

An Act for the Amendment of the Law relative to the Escheat and Forfeiture of Real and Personal Property holden in Trust. [27th *June* 1834.]

WHEREAS great Inconvenience has been found to result to Persons beneficially entitled to Real or Personal Property by the escheating or Forfeiture thereof to His Majesty, to Corporations, to Lords of Manors, and others, in consequence of the Death without Heirs, or the Conviction for Treason or Felony, of a Trustee in whom or in whose Name the same is vested: And whereas it is expedient that the same should be remedied: And inasmuch as, in order to avoid Repetition, certain Words are used in this Act as describing Subjects some of which, according to their usual Sense, such Words would not embrace; for the understanding of the Sense attached to them in this Act, be it therefore enacted by the King'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, That the Provisions of this Act shall extend to and include the several Estates and Persons, Matters and Things herein-after mentioned; (that is to say,) those relating to Land, to any Manor, Messuage, Tenement, Hereditament, or Real Property, whether Freehold, Customaryhold, Copyhold, or of any Tenure whatever; those relating to Chattels, to Personal Property of every Description capable of being transferred or disposed of otherwise than in Books kept by any Company or Society, or to any Share thereof or Interest therein;

Description of Estates and Matters included in the Provisions of this Act, and Construction of Terms used.

therein; those relating to Stock, to any Fund, Annuity, or Security transferable in Books kept by any Company or Society established or to be established, or to any Money payable for the Discharge and Redemption thereof, or to any Share or Interest therein; those relating to Dividends, to Interest, or other annual Produce; those relating to a Conveyance, to any Lease and Release, Surrender, or other Assurance of Real Property, including all Acts and Deeds necessary for making and perfecting the same; those relating to an Assignment, to any Surrender, Delivery, or other Disposition of the Personal Property, and to all Acts, Deeds, and Things necessary for making and perfecting the same; those relating to a Transfer, to any Payment or other Disposition of Stock; those relating to an Heir, to any Devisee or other real Representative, by the Common Law, or by Custom, or otherwise; and those relating to an Executor, to any Administrator or other personal Representative; unless there be something in the Subject or Context repugnant to such Construction; and whenever this Act, in describing or referring to any Trustee or other Person, or any Trust, Land, Stock, Conveyance, Assignment, Transfer, Grant, Matter, or Thing, uses the Word importing the Singular Number or the Masculine Gender only, the same shall be understood to include and shall be applied to several Persons as well as one Person, and Females as well as Males, and Bodies Corporate as well as Individuals, and several Trusts, Lands, Stocks, Conveyances, Assignments, Transfers, Grants, Matters, or Things respectively as well as one Trust, Land, Stock, Conveyance, Assignment, Transfer, Grant, Matter, or Thing respectively, unless there be something in the Subject or Context repugnant to such Construction.

If Trustee or Mortgagee of any Land die without an Heir, the Court of Chancery may appoint a Person to convey.

II. And be it enacted, That where any Person seised of any Land upon any Trust or by way of Mortgage dies without an Heir, it shall be lawful for the Court of Chancery to appoint a Person to convey such Land in like Manner as is provided by the Act of the Eleventh Year of King *George* the Fourth and the First Year of His present Majesty, intituled *An Act for amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees, and for enabling Courts of Equity to give effect to their Decrees and Orders in certain Cases*, in case such Trustee or Mortgagee had left an Heir, and it was not known who was such Heir; and such Conveyance shall be as effectual as if there was such Heir.

Lands, &c. vested in any Trustee shall not be escheated by reason of the Attainder or Conviction of such Trustee.

III. And be it further enacted, That no Land, Chattels, or Stock vested in any Person upon any Trust or by way of Mortgage, or any Profits thereof, shall escheat or be forfeited to His Majesty, His Heirs or Successors, or to any Corporation, Lord of a Manor, or other Person, by reason of the Attainder or Conviction for any Offence of such Trustee or Mortgagee, but shall remain in such Trustee or Mortgagee, or survive to his Co-trustee, or descend or vest in his Representative, as if no such Attainder or Conviction had taken place.

To whom and to what Cases the Provi-

IV. And be it enacted, That the several Provisions of this Act shall extend to every Case of a Trustee having some beneficial Estate or

Interest in the same Subject, or some Duty as Trustee to perform, and also to every Case of a Trust arising or resulting by Implication of Law or by Construction of Equity. sions of this Act shall extend.

V. Provided always, and be it hereby enacted, That nothing contained in this Act shall prevent the Escheat or Forfeiture of any Land, Chattels, or Stock vested in any such Trustee or Mortgagee, so far as relates to any beneficial Interest therein of any such Trustee or Mortgagee, but such Land, Chattels, or Stock, so far as relates to any such beneficial Interest, shall be recoverable in the same Manner as if this Act had not passed. This Act not to prevent the Escheat of any beneficial Interest.

VI. And whereas it is expedient to relieve Persons beneficially entitled to Real or Personal Property which has already escheated or become forfeited to His Majesty, to Corporations, to Lords of Manors, or others, by any of the Means aforesaid; be it therefore enacted, That in all Cases where before the passing of this Act any Person possessed of or entitled to any Land, Chattels, or Stock, or any Right to or Interest in any Land, Chattels, or Stock, as a Trustee thereof, either in whole or in part, or jointly with some other Trustee or Trustees, shall have died without an Heir, or shall have been convicted of any Offence whereby the said Land, Chattels, or Stock, or any of them, have escheated or been forfeited, or have become subject to any Escheat or Forfeiture, then and in every or any such Case the said Land, Chattels, or Stock, or the Right thereto or Interest therein which hath escheated or been forfeited, or become subject to Escheat or Forfeiture by reason thereof, shall be subject to the Order, Control, and Disposition of the Court of Chancery, for the Use of the Party beneficially interested therein, in such Manner, and subject in all respects to such Rights and Incidents, and to such Orders and Regulations of the said Court, under the Provisions of the said Act of the Eleventh Year of King *George* the Fourth and of the First Year of His present Majesty, as if such Person so dead without an Heir, or so convicted, as aforesaid, were out of the Jurisdiction of or not amenable to the Process of the said Court, without having been so convicted: Provided always, that nothing in this Clause contained shall extend to any Land, Chattels, or Stock now vested in any Person by virtue of any Grant thereof made subsequently to the Time when such Escheat or Forfeiture first occurred, or to any Land, Chattels, or Stock which more than Twenty Years prior to the passing of this Act shall have been actually vested in Possession or reduced into Possession by the Party entitled thereto by virtue of any such Escheat or Forfeiture. Where any Person possessing Lands, &c. as a Trustee shall have died without Heirs, or have been convicted, before the passing of this Act, the Lands, &c. shall become subject to the Control of the Court of Chancery. Proviso.

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