

**A SHORT EXPOSITION OF  
THE SETTLED LAND  
ACT, 1882 (45 & 46 VICT.  
C. 38): WITH AN INDEX**

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A Short Exposition of the Settled Land Act, 1882 (45 & 46 Vict. C. 38): With an Index by Henry W. Challis

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**HENRY W. CHALLIS**

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1882

(45 & 46 Vict. c. 39).

WITH AN INDEX.

BY  
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THE greater part of the following remarks appeared in the "Solicitors' Journal," November, December, 1882. They have been in a great measure re-written, and have received large additions. It is hoped that they have not thereby been made less worthy of the reader's attention.

2, STONE BUILDINGS,  
Dec. 21st, 1882.

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THE general intent of the Act may probably be summed up in a single sentence. It seems to aim at giving to every limited owner in possession of land full power to deal with the land in every way, as fully as it would be likely to be dealt with by a prudent and well-intentioned absolute owner in possession; and, while every facility is given for the making of those outlays upon which depends the well-being of the land and of those who live by it, many prudent precautions have been framed with a view to secure the fair distribution of all accruing benefits, and to preserve, as far as possible, the rights of persons interested as owners otherwise than in possession from loss or confiscation.

A great deal of what the Act proposes to make compulsory upon settlers is, and long has been, by custom voluntarily inserted into strict settlements of real property, with corresponding powers vested in the trustees of the settlement. It follows that a great feature of the Act's method is its transfer to tenants for life (who are the most common among limited owners in possession) of that initiative which has hitherto been exercised by trustees. It also follows that a great many rules for regulating the disposition of moneys raised by tenants for life are required to replace the general law relating to the duties of trustees.

It may be useful to glance briefly at the Acts which have been, to a certain extent, the precursors of the present one, and to note in outline the principal extensions of their policy. So far as the powers of leasing and ancillary powers conferred by the present Act upon tenants for life, and limited owners generally, are concerned, the Act may be regarded as an extension of the Settled Estates Act, 1877; and so far as the Act confers power to lay out money in making improvements upon the land, it may be regarded as an extension of the Improvement of Land Act, 1864 (27 & 28 Vict. c. 114).<sup>\*</sup> Of these previous Acts, only a small portion, not materially affecting their general working and design, is repealed; and the present Act does not seem to contemplate superseding them entirely. The Settled Estates Act, 1877, may still be resorted to, in cases where it is desired to grant an agricultural lease of settled land for a longer term than 21 years. The Improvement of Land Act, 1864, is expressly amended by sect. 30 of the present Act; the list of improvements contained in sect. 9 of the Act of 1864 being extended so as to comprise the more numerous items given in sect. 25 of the Settled Land Act. But the conditions imposed by the Act of 1864 upon landowners having limited interests who are desirous of effecting permanent improvements under the Act of 1864, were found in

<sup>\*</sup>The operation of the Improvement of Land Act, 1864, has been somewhat enlarged by the following Acts:—(1.) The 34 & 35 Vict. c. 84, or the Limited Owners' Residences Act (1870) Amendment Act, 1871, repealing and re-enacting with amendments 33 & 34 Vict. c. 56, s. 3, provides that the erection, completion and improvement of a mansion-house and other usual buildings and offices, suitable to the estate, shall be improvements within the meaning of the Act of 1864. (2.) The 40 & 41 Vict. c. 31, or the Limited Owners' Reservoirs and Water Supply Further Facilities Act, 1877 (which is, perhaps, the most sequel-pedalian *short title* hitherto invented by Parliament), similarly includes the construction or erection of reservoirs or other works of a permanent character for the supply of water. These Acts do not extend to Scotland.

practice to be so onerous that they have been little used. Application must be made to the Inclosure Commissioners (who will, after the end of this year, be merged in the Land Commissioners created by sect. 48 of the present Act); who may require security to be given beforehand for expenses to be incurred by them in submitting the application to an investigation of the most searching and rigorous kind. Notice of all proposed improvements must formerly have been given by advertisement; and various persons interested in the land had power to raise objections against them; but these provisions are repealed, as to England and Ireland, by the Settled Land Act. Large discretionary power of assenting to, or withholding assent from, improvements is of course vested in the Commissioners; and they, equally of course, felt themselves compelled, in order to avoid the danger of laxity, to lay down stringent rules which are, in practice, very hard to comply with. The proposed works cannot be commenced until detailed specifications and plans have been approved. The scheme thus outlined is carried into effect by a costly and troublesome machinery of provisional and absolute orders; and the only method provided for recouping the cost of a successful and successfully carried out application, is the creation of a rent-charge upon the land. The main provisions of the Act of 1864, may be summed up by saying that a limited owner, if willing to incur a good deal of expense and a much vaster amount of trouble and annoyance, might under its provisions raise money by what was practically the sale of a rent-charge, and, subject to onerous responsibilities, might expend the money so raised upon any of the objects specified in its sect. 9. These objects are much less numerous than those specified in sect. 25 of the Settled Land Act.

That the rules laid down by the commissioners who