

LAW BILLS OF THE SESSION.

reason for any difficulty in the transfer of landed interests in Upper Canada; and it is refreshing to see the premonitory symptoms of a "move" in property, under the genial influence of the bountiful harvest, with which a kind Providence has this year blessed us.

We have next a curious gathering of several excellent provisions under the head of "An act to amend the law of property and trusts in Upper Canada." The first four sections are placed under the head of "Leases," and are intended to restrict, in certain cases, the operation of the rule of law respecting licenses to do acts which without such license would create a forfeiture or give a right to re-enter, to the specific breach or the particular part of the property, &c., to which the permission or waiver is actually intended to extend. Sections 5 to 9 inclusive refer to the breach of covenants to insure against loss by fire. The act also provides for the release from a rent-charge on part of a hereditament charged. It permits a deed which is executed and attested in the ordinary manner, to be a valid execution of a power of appointment by deed, so far as such execution and attestation is concerned. It makes provisions respecting the sale of timber, &c., under a power of sale, and the sale of property charged with the payment of any debt, by a testator, &c. Section 19 enacts that any person shall have power to assign personal property, including chattels real, directly to himself and another or other persons or corporation, by the like means as he might assign the same to another. Section 20 provides a punishment for frauds on sales and mortgages. Powers of attorney in general, and powers of attorney executed by married women for the sale or conveyance of real estate to which she is entitled, or authorizing an attorney to bar dower, in particular, come in for their share of legislation; and the old difficulty of the death of the donor of the power, without the knowledge of the attorney, is removed. Sections 25 to 29 refer to the distribution of assets. Section 30 refers to limitation in intestacy, which does not come into force until 1st of January next. Section 31 enables any trustee, executor, or administrator, without the institution of a suit, to apply by petition, certified by counsel, to any Judge of the Court of Chancery, in chambers, for the opinion, advice, and direc-

tion of the Judge on any doubtful point connected with the management of the trust estate. By section 32, every deed or will creating a trust shall, without prejudice to the clauses actually contained in it, be deemed to contain the usual clause limiting the liability of trustees, which is set out at length. This discursive but most useful act winds up with a provision respecting the satisfaction of mortgages charged on lands as to which no direction is given by the will of the owner.

The act amending the Insolvent Act of 1864 was passed this session, and is given in full in another place, as well as some other enactments for which we make room, some of them in this number and some in the *Local Courts' Gazette*, namely, "An Act in reference to the qualification of Justices of the Peace," the origin of which was the decision of the Court of Queen's Bench in *Herbert qui tam v. Doucell*, 24 U. C. Q. B. 427; "An act to regulate the costs of arbitration;" An act to extend the act to impose duties on bills and notes to all notes and bills of whatever amount;" "An act to amend the master and servants' act;" "An Act to declare valid certain sales of lands in Upper Canada;" "An act to repeal the fifth sub-section of the Attorney's act;" "An act to prevent County Judges acting as conveyancers;" and "An act amending the Division Courts, so far as relates to the establishment of new divisions," &c.

Aliens have by degrees been placed more upon a footing with native-born subjects, so far as property is concerned; and an act of this session gives them further privileges, by enacting that the real estate of any alien dying intestate shall descend and be transmitted as if the same had been the real estate of a natural-born or naturalised subject of the Queen.

The march of intelligence may be further noticed in the passage of the act for abolishing the punishment of death in certain cases. For few if any of the crimes mentioned in the act is the death penalty now inflicted. If it is inexpedient that the punishment provided by law should be awarded, why have such punishments in the statute books?—and this, irrespective of the graver question, whether the extreme penalty of death is in any case consonant with sound reasoning, or necessary for the prevention of those crimes for which it may