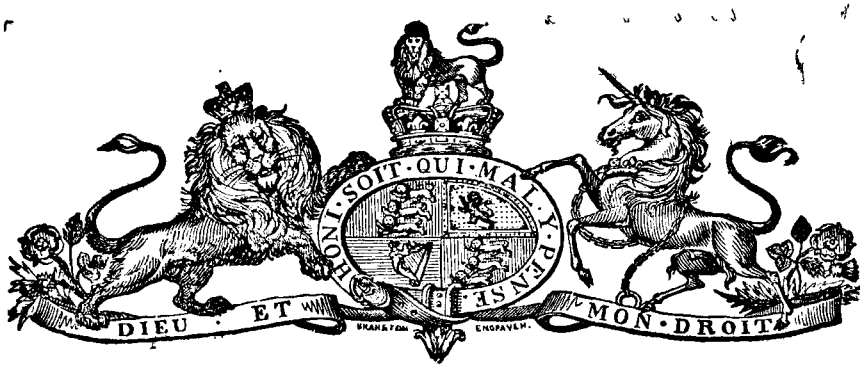


ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

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CAP. LX.

An Act to further amend the Church Building Acts. [7th *August* 1840.]

WHEREAS an Act was passed in the Fifty-eighth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for building and promoting the building of additional Churches in populous Parishes:* And whereas another Act was passed in the Fifty-ninth Year of the Reign of His said Majesty King *George* the Third, intituled *An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes:* And whereas another Act was passed in the Third Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend and render more effectual Two Acts, passed in the Fifty-eighth and Fifty-ninth Years of His late Majesty, for building and promoting the building of additional Churches in populous Parishes:* And whereas another Act was passed in the Fifth Year of the Reign of His said Majesty King *George* the Fourth, intituled *An Act to make further Provision, and to amend and render more effectual Three Acts passed* 58 G. 3. c. 45. 59 G. 3. c. 134. 3 G. 4. c. 72. 5 G. 4. c. 103.

in the Fifty-eighth and Fifty-ninth Years of His late Majesty and in the Third Year of His present Majesty, for building and promoting the building of additional Churches in populous Parishes: And whereas another Act was passed in the Seventh and Eighth Years of the Reign of His said Majesty King *George* the Fourth, intituled *An Act to amend the Acts for building and promoting the building of additional Churches in populous Parishes:* And whereas another Act was passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to amend and render more effectual an Act passed in the Seventh and Eighth Years of the Reign of His late Majesty, intituled 'An Act to amend the Acts for building and promoting the building of additional Churches in populous Parishes:'* And whereas another Act was passed in the Second and Third Years of the Reign of His said late Majesty, to render more effectual the aforesaid Act passed in the Fifty-ninth Year of the Reign of His Majesty King *George* the Third: And whereas another Act was passed in the First Year of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act to prolong for Ten Years Her Majesty's Commission for building new Churches:* And whereas another Act was passed in the First and Second Years of the Reign of Her said Majesty Queen *Victoria*, intituled *An Act to amend and render more effectual the Church Building Acts:* And whereas another Act was passed in the Second and Third Years of the Reign of Her present Majesty, intituled *An Act to make better Provision for the Assignment of Ecclesiastical Districts to Churches or Chapels augmented by the Governors of the Bounty of Queen Anne, and for other Purposes:* And whereas it is expedient to further explain and amend some of the Provisions of the said several recited Acts: 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, That it shall be lawful for Her Majesty's Commissioners for building new Churches to assign a new District Chapelry or new District Chapelries, under the Provisions of the herein-before recited Acts, or some or One of them, with such Consent and in such Manner as is therein required and specified, to any Church or Chapel situated in a District Chapelry which has been or hereafter may be formed under the said recited Acts, or some or One of them, and such new District Chapelry or District Chapelries may be formed out of a Part or Parts of One or more such first formed District Chapelry or Chapelries, with or without any Part or Parts of the Parish or Parishes out of which such District Chapelry or Chapelries may have been formed, and also of any Extra-parochial Place, or any Part thereof; and the Right of Nomination to the Chapel or Chapels of such new District Chapelry or District Chapelries shall belong to and be exercised by the Incumbent of the Parish out of which such first assigned District Chapelry shall have been taken, unless the Right of Nomination thereto shall be legally vested in some other Party or Parties, and in that Case such Right of Nomination shall belong to him or them, or to such Party or Parties as shall be agreed upon by him or them and the said Commissioners, with

7 & 8 G. 4. c. 72.

1 & 2 W. 4. c. 38.

2 & 3 W. 4. c. 61.

7 W. 4. & 1 Vict. c. 75.

1 & 2 Vict. c. 107.

2 & 3 Vict. c. 49.

Commissioners may assign a new District Chapelry or new District Chapelries out of a District Chapelry or Chapelries already formed.

Consent of the Bishop; and the Chapel or Chapels of such new District Chapelry or District Chapelries shall respectively be subject to the Provisions and Regulations contained in the herein-before recited Acts respecting District Chapelries.

Licence in Mortmain not necessary in Cases of Endowment, Grant, or Conveyance of Houses, Lands, &c., under the Church Building Acts.

II. And be it further enacted, That in any Case where, under the herein-before recited Acts or either of them, or of this Act, an Endowment, Grant, or Conveyance, consisting of or arising out of Houses, Lands, Tithes, Advowsons, Rent-charges, Tenements, or other Hereditaments, or consisting of Money to be laid out in Lands or other Hereditaments, is authorized to be made, for the Purpose of a Site for any Church or Chapel, or Churchyard, or Parsonage House, or Glebe, or for the Use or Benefit of any Church or Chapel, or of the Incumbent or Minister thereof, or for the Repairs thereof, such Endowment, Grant, or Conveyance, whether made before or after the passing of this Act, shall be good and valid, without any Licence or Writ of Ad quod damnum, the Statutes of Mortmain or any other Statute or Law to the contrary notwithstanding.

Mortmain Acts to apply where Endowment exceeds the annual Value of 300*l.*

III. Provided nevertheless, and be it enacted, That nothing herein contained shall authorize an Exemption from the Provisions of the Mortmain Acts where, in the Case of an Endowment as aforesaid for the Use or Benefit of any Church or Chapel, or of the Incumbent or Minister thereof, such Endowment, whether made at one Period or at different Periods, shall in any One Case exceed in the whole the clear annual Value of Three hundred Pounds.

Power to determine the clear annual Value of such Endowment.

IV. And be it further enacted, That in every Case in which it shall be desired to ascertain the clear annual Value of such Endowment, it shall be lawful for the said Commissioners or for the Bishop of the Diocese to cause such clear annual Value to be determined and ascertained by any Two Persons whom they or he shall appoint for that Purpose, by Writing under the Common Seal of the said Commissioners, or by Writing under the Hand of the said Bishop, which Writing is hereby directed to be afterwards annexed to the Instrument by which such Endowment shall be effected; and a Certificate of such clear annual Value, written and endorsed on the Instrument by which such Endowment shall be effected, and signed by such Persons as aforesaid, shall for all the Purposes of this Act be conclusive Evidence of such clear annual Value as aforesaid.

Commissioners, with Consent of the Bishop, may, in certain Cases, augment the Stipend of the Incumbent or Minister of

V. And whereas it is expedient that Her Majesty's Commissioners for building new Churches should have the Power, with the Consent of the Bishop of the Diocese, to augment, out of the surplus Pew Rents of a Church or Chapel, the Stipend of the Incumbent or Minister thereof (in respect to which Church or Chapel the said Commissioners have made or hereafter may make an Order for the Reservation of the Pew Rents thereof, and an Assignment thereout of an annual Stipend to such Incumbent or Minister,

a Church or Chapel out of the surplus Pew Rents.

Minister, under the Authority of the said recited Act passed in the Fifty-eighth Year of the Reign of His late Majesty King *George* the Third); be it therefore enacted, That it shall be lawful for the said Commissioners, if they shall think fit, to direct, under their Common Seal, with the Consent of the Bishop of the Diocese under his Hand and Seal, a further Assignment to the Incumbent or Minister of any Church or Chapel, for his Use and Benefit, of a Part or of the Whole of the surplus Pew Rents thereof, already accrued or hereafter to accrue, in respect to which Church or Chapel the said Commissioners may have made or hereafter may make, under the said last-mentioned Act, an Order for the Reservation of Pew Rents, and an Assignment thereout to such Incumbent or Minister, any thing in the said recited Acts to the contrary notwithstanding; and every such further Assignment shall be registered in the Registry of the Diocese: Provided always, that the Power herein given shall not be exercised in any Case where such surplus Pew Rents have been invested in Government Securities in the Names of Trustees to be appointed by the Bishop of the Diocese, and suffered to accumulate, for the Purpose of forming a Fund for the building or purchasing a House of Residence, with the Consent of the Bishop of the Diocese, for the Spiritual Person serving such Church or Chapel, or where such surplus Pew Rents have been charged or chargeable by the said Commissioners with the Payment of any Sum or Sums of Money borrowed or advanced by way of Loan at Interest, or by way of Annuity, or otherwise, for or towards the building any such Church or Chapel, or for the purchasing any Site or Sites for the same, and defraying all Expences relative thereto, and in keeping such Church or Chapel in repair.

This Power not to be exercised where surplus Pew Rents have been invested in Government Securities to form a Fund for building or purchasing a Parsonage House, &c.

Boundaries of distinct and separate Parishes, or District Parishes or District Chapelries, may be altered by an Order in Council, on Representation by the Commissioners, with certain Consents.

VI. And whereas by the said recited Act passed in the Fifty-eighth Year of the Reign of His late Majesty King *George* the Third it is provided, that by an Order in Council, upon the Representation of the said Commissioners made with the Consent of the Bishop of the Diocese, the Boundaries of a distinct and separate Parish, or of a District Parish, formed under the said Act, may be altered within Five Years after a Description of such Boundaries has been enrolled in the High Court of Chancery; and it is expedient that the Power of altering such Boundaries should be enlarged, with certain Consents; Be it therefore enacted, That if Her Majesty in Council, upon the Representation of the said Commissioners made with the Consents of the Bishop of the Diocese and of the Patron and Incumbent of the Parish Church, signified under their respective Hands and Seals, shall think fit to alter the Boundaries of a distinct and separate Parish, or a District Parish or a District Chapelry, (formed under the herein-before mentioned Acts passed in the Fifty-eighth and Fifty-ninth Years of the Reign of His late Majesty King *George* the Third, or either of them,) at any Time after Five Years from the Time the Description of such Boundaries has been enrolled in the High Court of Chancery, such Order in Council shall be good and valid in Law for the Purpose of effecting such Alteration, any thing in the said recited Act of the Fifty-eighth Year of the Reign of His late Majesty King *George* the Third, limiting the Power of making such Alteration

tion in such Boundaries to Five Years from the Time the Description of such Boundaries has been enrolled in the High Court of Chancery, to the contrary notwithstanding; and such Order in Council shall be enrolled and registered in manner directed by the said last-mentioned Act.

Alteration of Boundaries not to take effect, without Incumbent's Consent, until next Avoidance.

VII. And be it further enacted, That if the Consent of the Incumbent as aforesaid is not obtained to such Alteration of Boundaries, such Order in Council on the Representation of the said Commissioners may be made, and shall be good and valid, with the Consents of the Bishop of the Diocese and the Patron aforesaid, though without the Consent of such Incumbent; provided that such Alteration does not take effect until after the next Avoidance of the Parish Church.

Select Vestries under 59 G. 3. c. 134. s. 30. may appoint new Vestrymen where Vestrymen neglect to attend.

VIII. And be it further enacted, That the Power given to a Select Vestry appointed under the Provisions of the herein-before recited Act passed in the Fifty-ninth Year of the Reign of His late Majesty King *George* the Third, to elect new Members of such Vestry as Vacancies may arise by Death, Resignation, or ceasing to inhabit the Parish, shall be extended to Cases where any such Vestrymen shall neglect to attend the Meetings of such Select Vestry for the Space of Twelve Months, provided such Select Vestry shall have met at least Three Times during such Twelve Months; and in every such Case it shall be lawful for such Select Vestry to declare the Member or Members of such Select Vestry so neglecting to attend no longer a Member or Members of such Vestry, and the Vacancy or Vacancies thereby created shall be filled up in the Manner directed by the said last-mentioned Act with respect to Vacancies arising by Death, Resignation, or ceasing to inhabit the Parish.

Subscribers to the building and endowing of a Church or Chapel under 1 & 2 W. 4. c. 38. may nominate a Patron to the Commissioners subsequent to the Application.

IX. And be it further enacted, That so much of the said recited Act passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth, Chapter Thirty-eight, as requires that when a Church or Chapel shall have been or shall be built by Subscription under that Act, the Nomination or Appointment thereto shall be signified to the said Commissioners, for their Consideration, by the major Part in Value of such Subscribers, at the Time of the Application to the said Commissioners, shall be and the same is hereby repealed, so far only that it shall not be necessary for the major Part in Value of the Subscribers to the building and Endowment of such Church or Chapel to declare such Nomination or Appointment to the said Commissioners at the Time of such Application, but the same may be signified by such Subscribers to the said Commissioners for their Consideration at the Time of or subsequently to such Application; provided that the same be so signified before the said Commissioners affix their Common Seal to any Instrument granting the Right of Nomination to such Church or Chapel.

In case of Neglect to nominate.

X. And be it further enacted, That the Right of Patronage already granted with respect to any such Church or Chapel shall not be affected by reason of such Nomination or Appointment not having been

been sent to the said Commissioners at the same Time as the Application aforesaid.

Who entitled to make such Nomination.

XI. And be it further enacted, That from and after the passing of this Act no Subscriber for a less Amount than Fifty Pounds towards the building or Endowment of any Church or Chapel shall be entitled to join in making such Nomination or Appointment as aforesaid, under the said recited Act, to the said Commissioners or the Bishop of the Diocese.

Amount of Endowment necessary where the Bishop is authorized to grant the Patronage of a Church built under 1 & 2 W. 4. c. 38. and 1 & 2 Vict. c. 107.

XII. And be it further enacted, That for the Purposes of the said recited Acts passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth, Chapter Thirty-eight, and the First and Second Years of Her present Majesty's Reign, Chapter One hundred and seven, an Endowment consisting of Houses or Lands in Fee Simple of the Value of One thousand Pounds at the least, or an Endowment of One thousand Pounds at the least vested in Houses or Lands in Fee Simple, or an Endowment of such a Sum vested in Houses or Lands in Fee Simple as will with a further Investment in the Funds amount to One thousand Pounds at the least, may be taken in those Cases where the Bishop of the Diocese is authorized, if he sees fit, to grant the perpetual Right of nominating a Minister in the Manner specified in the said recited Acts or either of them; provided that where such Endowment consists of Houses or Lands in Fee Simple of the Value of One thousand Pounds at the least, or where such Endowment is composed of such a Sum vested in Houses or Lands in Fee Simple as will, with a further Investment in the Funds, amount to One thousand Pounds at the least, a Certificate shall in each such Case be produced to the Bishop of the Diocese, signed by Two Architects or Surveyors, to the Effect that the actual Value of such Endowment amounts to One thousand Pounds at the least.

Major Part in Value of Subscribers to a Church or Chapel may in certain Cases appoint new Trustees.

XIII. And be it further enacted, That where by the said recited Act passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth future Trustees or a future Trustee for any Church or Chapel built and endowed under that Act are directed to be chosen in such Manner as may in the first instance be agreed upon by the Persons building and endowing such Church or Chapel, or the major Part of them, and the Bishop of the Diocese, under their Hands and Seals, in the Place and Stead of any One or more of the Trustees who shall from Time to Time die, resign, or become incapable of acting, and in whom the Right of nominating a Minister to such Church or Chapel shall be vested, the major Part in Value of the Subscribers to the building and endowing such Church or Chapel shall in every such Case be entitled to make such Agreement touching the Appointment of any such future Trustees or Trustee, with the Bishop of the Diocese, under their Hands and Seals, any thing in the said recited Act to the contrary notwithstanding; provided that from and after the passing of this Act no such Subscriber shall be so entitled unless his Subscription shall amount to at least Fifty Pounds, as provided by this Act.

XIV. And

XIV. And be it further enacted, That where a Parish has been divided into separate and distinct Parishes, or a District Parish or District Parishes have been formed out of such Parish, under the Provisions of the said recited Acts, or by any competent Authority, and where no separate Census has been made by Authority of Parliament of the Population of such distinct and separate or District Parishes, the Jurisdiction given by the said recited Acts of the First and Second Years of the Reign of His late Majesty King *William* the Fourth, or of the First and Second Years of the Reign of Her present Majesty, to the said Commissioners, or to the Bishop of the Diocese, (as the Case may be,) to declare the Right of Patronage under such Acts, shall not be invalidated by reason of no such separate Census having been made, whether such Jurisdiction has been or may be exercised before or after the passing of this Act; and that it shall be sufficient in every such Case, with reference to the Amount of Population, to state in the Notices or Copies of Application (required to be served on or sent to the Patron or Incumbent under such Acts, or One of them,) the Amount of the Population according to the last Parliamentary Census of the original Parish; and the Patron and Incumbent of the distinct and separate Parish or District Parish in which the new Church or Chapel built or proposed to be built shall be situate shall in every such Case be considered to be the Patron and Incumbent to whom such Notices or Copies of Application are required to be sent or served under such Acts or One of them; provided that in every such Case where the Bishop of the Diocese claims to have Jurisdiction under the said recited Acts or either of them to grant such Right of Patronage, by reason of the Population of the Parish amounting to Two thousand Persons, with Church Accommodation for not more than One Third of the Inhabitants thereof, the Population of such original Parish shall amount, according to the last Parliamentary Census, to Two thousand Persons at the least, and that the existing Churches and Chapels in such original Parish do not afford Accommodation for more than One Third of the Inhabitants thereof.

Census of original Parish may be used in certain Cases under 1 & 2 W. 4. c. 38. and 1 & 2 Vict. c. 107.

XV. And be it further enacted, That for the Purpose of a Fund directed or authorized to be secured for the Repairs of a Church or Chapel built and endowed or to be built and endowed under the said last-mentioned Acts or One of them, a perpetual Rent-charge, equal in Value to the Repair Fund directed or authorized by the said Acts or either of them to be secured for such Purpose, may be made on Lands or other Hereditaments; and it shall and may be lawful for the Incumbent of such Church or Chapel, so soon as the same has been consecrated, and a particular District assigned thereto, under the said recited Act of the First and Second Years of His late Majesty King *William* the Fourth, to accept, take, and hold any such Rent-charge upon the Trusts and for the Intents and Purposes for which the same shall have been or hereafter may be given or granted, by the Person or Persons providing the same, in like Manner as any such Repair Fund may now be taken or held by any private Trustee or Trustees; and it shall and may be lawful for any Trustee or Trustees

A perpetual Rent-charge for Repairs under 1 & 2 W. 4. c. 38. and 1 & 2 Vict. c. 107. may be secured on Lands, &c. which may be assigned to the Incumbent.

Trustees of any such Repair Fund to assign and transfer such Rent-charge to such Incumbent and his Successors, to be held and applied by him or them, or to allow the same to be so applied, upon the same Trusts, Intents, and Purposes as the same previously to such Assignment and Transfer were held by such Trustee or Trustees.

Where a Church, &c. is built in an Extra-parochial Place, and there is no Incumbent, Notices may be sent to the Bishop.

XVI. And be it further enacted, That where a Church or Chapel has been or shall hereafter be built and endowed, under the Provisions of the said last-mentioned Acts or either of them, in any Extra-parochial Place where there is no Incumbent, it shall be sufficient, with respect to the Notices required to be sent or served on the Patron and Incumbent, to send such Notices with respect to such Extra-parochial Place to the Bishop of the Diocese alone; and such Notices, when so sent, shall be deemed to be as good and valid as if the same had been sent to the Patron and Incumbent.

Additional Endowments may be made; but not to be exempted from the Mortmain Acts, where the clear yearly Value of the whole is more than 300*l*.

XVII. And be it further enacted, That an additional permanent Endowment may be at any Time made for the Use or Benefit of any Church or Chapel, or of the Incumbent or Minister thereof, which may have been previously built and endowed under the said last-mentioned Acts or either of them; and such additional Endowment may consist of Houses, Lands, Tithes, Advowsons, Rent-charges, Tenements, or other Hereditaments, or of Money in the Funds, or of Money to be laid out in Lands or other Hereditaments: Provided always, that nothing herein contained shall be construed to extend to the authorizing any such additional Endowment, without the same being subject to the Provisions of the Mortmain Acts, which shall amount, together with the former Endowment or Endowments, in any One Case to more than the clear yearly Value of Three hundred Pounds.

Commissioners, with Consent of Bishop, or Bishop alone, may order the Fees for Ecclesiastical Offices to belong, after next Avoidance of Parish Church, to the Incumbent of the endowed Church or Chapel.

XVIII. And be it further enacted, That in any Case in which the said Commissioners, or the Bishop of the Diocese, as the Case may be, shall hereafter grant the Patronage of any Church or Chapel built and endowed or to be built and endowed under the said recited Acts passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth and in the First and Second Years of the Reign of Her present Majesty, or either of them, and shall hereafter assign a particular District to such Church or Chapel under the said first-mentioned Act, and shall determine under that Act that the Offices of Baptisms, Churchings, or Burials, or some or one of them, shall be performed in such Church or Chapel, it shall be lawful for the said Commissioners, if they think fit, with the Consent in Writing of the Bishop of the Diocese, or for the Bishop of the Diocese alone, as the Case may be, to order and direct that all or a Portion of the Fees arising from the Performance of such Offices, and from the making, opening, or using any Catacombs, Vaults, or Ground for Burials of or belonging to such Church or Chapel, shall, from and after the next Avoidance of the Parish Church of the Parish in which such Church or Chapel is situated, belong and be paid to the Incumbent of such Church

Church or Chapel for his own Use and Benefit; and every such Order or Direction shall be good and valid, any thing in the said recited Acts or either of them to the contrary notwithstanding; and every such Order and Direction shall be registered in the Registry of the Diocese.

Commissioners may apply Land to Ecclesiastical Purposes, or to parochial or charitable Uses.

XIX. And be it enacted, That in every Case in which any Grant shall have been or shall be made of any Land or Ground to the said Commissioners for any of the Purposes of the said recited Acts or of any of them, either for a valuable Consideration being paid for the same, and in which the said Commissioners shall determine to apply a Part only of such Land or Ground to any of the Purposes of the said recited Acts or any of them, it shall be lawful for the said Commissioners and they are hereby authorized and empowered, with the Consent of the Grantor or Grantors or Donor or Donors (as the Case may be) of such Land or Ground, or of his, her, or their Heirs or Successors, (which Consent such Grantor or Grantors or Donor or Donors, and his, her, or their Heirs and Successors, whether he, she, or they shall or shall not be under any legal or equitable Disability or Incapacity whatsoever to give such Consent, is and are hereby fully authorized and empowered to give accordingly,) to apply any Part of such Land or Ground which shall not have been or shall not be applied by the said Commissioners for the Purposes of the said recited Acts, or of any of them, to any other Ecclesiastical Purposes, either as Glebe or otherwise, for the Use of the Incumbent or Minister of the Parish, Place, or District in which such Land or Ground is situate, or for the Purpose of any parochial or charitable School or any other charitable or public Purpose relating to any such Parish or Place.

Commissioners may defray the Costs of consolidating the recited Acts and this Act.

XX. And be it enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized, if they think proper, to defray the Law Costs and other incidental Expences of amending or consolidating the herein-before recited Acts and this Act, out of any Money in their Hands arising out of Exchequer Bills issued to them under the Provisions of the herein-before recited Acts of the Fifty-eighth Year of the Reign of His late Majesty King *George* the Third and of the Fifth Year of the Reign of His late Majesty King *George* the Fourth, or either of them.

The Provisions of 1 & 2 Vict. c. 106. as to the Parties to be considered Patrons, and to the Mode of giving Consents, to apply to this Act.

XXI. And be it further enacted, That the Provisions contained in an Act passed in the First and Second Years of the Reign of Her present Majesty, intituled *An Act to abridge the holding of Benefices in Plurality, and to make better Provision for the Residence of the Clergy*, touching the Party or Parties who for the Purposes of such Act shall be in the Cases therein mentioned considered the Patron or Patrons, and the Manner in which the Consent of or the Execution of any Deed or Deeds, Instrument or Instruments by or Notice to such Patron or Patrons shall be given or effected, shall apply to the Consent of, or the Execution of any Deed or Deeds, Instrument or Instruments by or Notice to such Patron or Patrons for the Purposes of the herein-before first-recited Acts or this Act.

To what Parts only this Act shall extend.

XXII. And be it further enacted, That this Act shall extend only to that Part of the United Kingdom called *England* and *Wales*, and to the *Isle of Man*, and to the Islands of *Guernsey*, *Jersey*, *Alderney*, and *Sark*.

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