

ANNO VICESIMO PRIMO & VICESIMO SECUNDO

VICTORIÆ REGINÆ.

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CAP. XLV.

An Act to amend the Provisions of an Act of the Sixth Year of King *William* the Fourth, for separating the Palatine Jurisdiction of the County Palatine of *Durham* from the Bishoprick of *Durham*; and to make further Provision with respect to the Jura Regalia of the said County.

[23d *July* 1858.]

WHEREAS by an Act passed in the Sixth Year of the Reign of His late Majesty King *William* the Fourth, Chapter Nineteen, it was by the First Section enacted, that from and after the Commencement of that Act the Bishop of *Durham* for the Time being should have and exercise Episcopal and Ecclesiastical Jurisdiction only, and that from and after the Commencement of that Act the Palatine Jurisdiction, Power, and Authority theretofore vested in and belonging to the Bishop of *Durham* should be separated from the Bishoprick of *Durham*, and should be transferred to and vested in His Majesty, His Heirs and Successors, as a Franchise and Royalty separate from the Crown, and should be exercised and enjoyed by His Majesty, His Heirs and Successors, as a separate Franchise and Royalty, in as large and ample a Manner in all respects as the same had been theretofore exercised and enjoyed by the Bishop of *Durham*, and that all Forfeitures of Lands or Goods for Treason or otherwise, and all Mines of Gold and Silver, Treasure Trove, Deodands, Escheats, Fines and Amerciaments, and all Jura

Regalia, of what Nature or Kind soever, which if that Act had not been passed would or might belong to the Bishop of *Durham* for the Time being in right of the County Palatine of *Durham*, should be vested in His Majesty and His Successors in right of the same; and it was by the said Act provided, that nothing therein-before contained should prejudice or affect the Jurisdiction of any of the Courts of the said County Palatine, or any Appointment theretofore made to any Office in the said County Palatine, or any Act whatsoever theretofore done by the Bishop of *Durham* in right of the said County Palatine; and by the Ninth Section of the same Act it was provided, that nothing therein-before contained should have the Effect of severing or of separating from the said Bishoprick, or of affecting the Rights and Powers of the said Bishop in, over, upon, and with respect to any Lordships, Manors, Houses, Lands, Tenements, Tithes, Rents, Collieries, Mines, Minerals, Rectories, Advowsons, Profits, or Emoluments, of any Kind or Description whatsoever, whether held in right of the said Bishoprick, or in right of the said County Palatine, or otherwise howsoever, other than and except only any Profits and Emoluments therein-before expressly mentioned and directed to be severed therefrom: And whereas by virtue of an Act passed in the Session of the Third and Fourth Years of the Reign of Her present Majesty, intituled *An Act to carry into effect, with certain Modifications, the Fourth Report of the Commissioners of Ecclesiastical Duties and Revenues*, and of a Scheme of the Ecclesiastical Commissioners, and an Order of Her Majesty in Council dated the Fourth Day of *April* One thousand eight hundred and fifty-six, and published in the *London Gazette* on the Twenty-second Day of the same Month, ratifying the said Scheme, with the Consent of the Right Reverend *Edward* then Bishop of *Durham*, testified by his Hand and Episcopal Seal being affixed to the said Scheme, all the Manors, Lands, Tithes, Tenements, and Hereditaments which then belonged, either in possession or reversion, to the said Bishop in right of his Bishoprick (except Rights of Patronage, the Episcopal Residence at *Bishops Auckland*, with the Grounds thereto belonging, and certain other Lands specified in the Schedule to the said Scheme, and Sums of Money and Cash), and all the Estate and Interest therein of the said Bishop, are transferred to and become vested in the said Ecclesiastical Commissioners and their Successors, for the Purposes of the last-mentioned Act, and other Acts referred to in the said Scheme, as from the First of *October* then last: And whereas amongst the Jura Regalia claimed by the Bishop of *Durham* previously to and at the Time of the passing of the said first-recited Act was the Right to the Shore of the Sea between High-water Mark and Low-water Mark, and to the Beds and Shores of navigable Rivers so far as the Tide flows

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and reflows therein, within the said County of *Durham:* And whereas Doubts are entertained with respect to the said Claim, and with respect to the Construction of the said Act how far such Right is or has thereby become vested in Her Majesty: And whereas Doubts have also arisen how far some Portions of the said Seashore and of the said Beds and Shores of the said navigable Rivers do or do not belong to the See of *Durham*, as Parcel of some or One of the Manors, Seigniories, or Possessions appertaining thereto: And whereas for putting an end to all Controversy and Question with respect to the several Matters aforesaid, by a Memorandum of Agreement dated the Eleventh Day of *June* One thousand eight hundred and fifty-seven, made between the Honourable *Charles Alexander Gore*, a Commissioner of Her Majesty's Woods, Forests, and Land Revenues, on behalf of the Queen's most Excellent Majesty, of the one Part, and the Ecclesiastical Commissioners for *England* of the other Part, after reciting as is by this Act recited, and that it was desirable that the Doubts which had arisen as herein-before recited should be removed, it was, with the Approval of the Commissioners of Her Majesty's Treasury and of Her Majesty's Law Officers, agreed, that, subject to the Sanction of Parliament being obtained, the following Arrangement should be made concerning the Premises; that is to say, First, that, subject as therein-after mentioned, it should be considered or enacted that all the Estate and Interest of the Bishop in right of the See and County Palatine of *Durham*, or in right of any Manor, Parcel of that See, and also any Estate and Interest of Her Majesty the Queen in right of the said County Palatine, and whether by virtue of the recited Act of the Sixth and Seventh Years of King *William* the Fourth, Chapter Nineteen, or irrespectively of the said Act, in the Shores of the *German Ocean*, and of navigable Rivers below High-water Mark within the County of *Durham*, was by the last-mentioned Act or otherwise should become vested in Her Majesty in right of Her Crown, and that it should be provided that the same should be held by Her Majesty as Part of the Hereditary Possessions of the Crown; Second, that such Declaration should not extend to such Lands recovered from the Flow of the Tide before the passing of the said Act of the Sixth and Seventh Years of *William* the Fourth as the Bishop had previously to that Act in fact received Rent from as reclaimed Land (which Land was to continue Parcel of the See of *Durham*); Third, that existing Leases by the Bishop of Parts of the Shores in question, not being such reclaimed Land as aforesaid, should be confirmed, but that the Rents reserved by them, or a fair Proportion of such Rents, if other Property was comprised in the same Lease, should in future be paid to the Crown; Fourth, that all Purchase Monies and Rents received on behalf of the Crown for Foreshore in any Part of the County should, after Payment of Expenses, be divided into Halves, and that one Moiety should be

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paid to the Ecclesiastical Commissioners, and the other Moiety be retained on behalf of Her Majesty; Fifth, that any Monies deposited in the Court of Chancery for Land taken since the Fifth Day of *July* One thousand eight hundred and thirty-six, being then Foreshore, and not previously reclaimed, for which Rent had been received by the Bishop, should in like Manner be divided equally between the Crown and the Ecclesiastical Commissioners, and that all Sales and Transactions in respect of which such Monies have been deposited should be confirmed; Sixth, the Definition of the County to be the same as in the Act of King *William* the Fourth, except that *Holy Island* was not to be included in the Arrangement; Seventh, a Schedule to be made out of the Premises coming within the Scope of the Third Article: And whereas it is expedient that the Arrangement referred to in the recited Memorandum of Agreement be carried into effect, subject to such Variations as are made by this Act, and that such further Provisions should be made as are herein-after contained; and Her Majesty has been graciously pleased to assent thereto: 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,

Definition of the Words "the County of Durham."

I. That in this Act the Words "the County of *Durham*" shall have the same Interpretation and Meaning as in the said recited Act.

The Interest of the Bishoprick of Durham in the Foreshores of the County of Durham vested in Her Majesty.

II. All the Estate, Right, Title, and Interest of or to which Her Majesty the Queen is seised or entitled, in right of the said County Palatine, and also all the Estate, Right, Title, and Interest whatsoever of or to which the Bishop of *Durham* was at the Time of the passing of the first-recited Act, or of or to which the said Bishop or the Ecclesiastical Commissioners for *England* now is or are seised or entitled, either in right or as Part or Parcel of the County Palatine or See of *Durham*, or of any Lordship, Manor, or Seigniory forming Part of the Possessions of such See or County Palatine respectively, in and to the Soil and Freehold of the Beds and Shores of navigable Rivers so far as the Tide flows and reflows, and the Shores of the Sea below High-water Mark, and also (except as herein-after provided) in and to any Inclosures, Embankments, or Encroachments made therefrom or thereupon respectively, within or adjacent to the County of *Durham*, and also in and to any Stocks, Funds, and Securities or Monies standing in the Name of the Accountant General of the Court of Chancery, representing the Purchase Money or Value of any Part of the Beds and Shores aforesaid, (subject, as regards the said Stocks, Funds, Securities, and Monies, to any Dispositions of the Interest of the See of *Durham* therein heretofore lawfully made by the Bishop of *Durham* for the Time being,) is and are by this Act transferred to and vested

vested or declared to be vested in the Queen's most Excellent Majesty, Her Heirs and Successors, as Part of the Hereditary Possessions and Land Revenues of the Crown, and to be within the ordering and Survey of Her Majesty's Court of Exchequer at *Westminster*, anything in the said first-recited Act notwithstanding, subject nevertheless to any Leases now affecting the same Premises or any Part thereof: Provided nevertheless, that nothing in this Act contained shall extend to the Island called "*Holy Island*," situate in that Part of the County Palatine of *Durham* called "*Islandshire*," neither shall anything herein contained extend to transfer to or vest in Her Majesty the Right or Title of the Bishop of *Durham* or of the Ecclesiastical Commissioners in or to any Land reclaimed from the Flow of the Tide in any navigable River or upon the Shore of the Sea within the County of *Durham*, from which the said Bishop had previously to the passing of the first-recited Act actually received Rent after the same had been so reclaimed, but all such last-mentioned reclaimed Land shall be deemed to have been and to be Parcel of the Possessions late belonging to the See of *Durham*, and now vested in the said Ecclesiastical Commissioners for *England*.

Certain Leases by the Bishop confirmed, but Rents received under some of them to be apportioned.

III. All Leases granted by the Bishop of *Durham* for the Time being of any Part or Parts of the Shores of any navigable River so far as the Tide flows, or of the Shores of the Sea, and of any Inclosures, Embankments, or Encroachments made therefrom or thereupon respectively, within or adjacent to the County of *Durham*, and all Leases of any Rights, of whatsoever Description, upon or over the Beds or Shores of any such navigable River, or of the Shore of the Sea within the same County, are by this Act confirmed, and all Rents and Profits of such reclaimed Land as aforesaid as is reserved to the said Ecclesiastical Commissioners by the Proviso to the Second Section of this Act shall continue to be received by the said Ecclesiastical Commissioners, and all other Rents and Profits which shall accrue due under any of the said Leases shall be paid to the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, on behalf of the Queen's Majesty, Her Heirs and Successors, subject to the Provisions herein-after contained; and when any Lease shall comprise other Property in addition to that in respect of which the Rents and Profits are by this Act directed to be paid to Her Majesty, and One or more Rent or Rents is or are reserved in respect of the entire Premises demised, such Rent or Rents shall during the Subsistence of such Lease continue to be received by the said Ecclesiastical Commissioners, anything in this Act contained notwithstanding; but an Apportionment shall be made of such Rent or Rents, either by some competent Surveyor, to be agreed upon and appointed by the Commissioners of Woods, Forests, and Land Revenues, or one of them, on behalf of Her Majesty, and by the Ecclesias-

tical Commissioners, or by Two Surveyors (one to be nominated by each Party), and an Umpire to be named by such Two Surveyors, or by the major Part in Number of such Two Surveyors and Umpire; and every such Apportionment shall be conclusive, and the Proportion of the Rents and Profits which shall be apportioned to Her Majesty shall thenceforth during the Continuance of the Lease be paid by the said Ecclesiastical Commissioners to the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, on behalf of Her Majesty, Her Heirs and Successors, subject nevertheless as herein-after mentioned; but the Apportionment of Rent herein-before directed shall in no Manner affect or prejudice any Lessee under any such Lease, nor affect or prejudice any Covenant, Proviso of Re-entry, or any other Proviso or Condition therein; and the said Ecclesiastical Commissioners shall during the Continuance of any such Lease have all such Powers of recovering the Rent, and of compelling the Performance of the Covenants, and Right of Re-entry, in all respects as if they were entitled to the Reversion of all the Hereditaments comprised in the Lease; but on any Determination of any Lease, including any Part of the Property belonging to Her Majesty, under the Provisions of this Act or otherwise, the same shall in all respects become subject to the Provisions of the several Acts of Parliament regulating the Management of the Possessions and Land Revenues of the Crown; and in lieu of the Schedule by the said recited Agreement directed to be made, the Counterparts of all Leases of any Hereditaments, the whole Rents arising in respect whereof are by this Act directed to be paid to the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, shall immediately after the passing of this Act be delivered up to the same Commissioners, and Copies of the Counterparts of all Leases of any Hereditaments, the whole or a Portion of the Rents and Profits accruing in respect whereof are directed to be paid to the said last-named Commissioners, shall immediately after the passing of this Act be made in the Office of the Ecclesiastical Commissioners for *England*, and such Counterparts and Copies to be so delivered to the said Commissioners of Woods, and to be so made as aforesaid, shall be inrolled in the Office of Land Revenue Records and Inrolments, and the Inrolment thereof shall be admissible as Evidence of the said Leases respectively.

Rents and Proceeds from the Foreshores of Durham to be divided equally between the Crown and the Ecclesiastical Commissioners.

IV. All Rents and Profits and other Monies which may be received by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, under the Provisions of this Act or otherwise howsoever, from, and the Proceeds of any Sales or Dispositions made by them or either of them of, any Part of the Bed or Shores of any navigable River so far as the Tide flows, or of the Shores of the Sea below High-water Mark, or of any Inclosures, Embankments, and Encroachments made therefrom or thereupon respectively within the County

County of *Durham*, and after deducting thereout all Costs, Charges, and Expenses in anywise incidental to the Sale or Management or Recovery of such Property, shall be divided into Moieties, and one Moiety of such Rent, Profits, Monies, and Proceeds shall be applied by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues as Part of the Hereditary Possessions and Land Revenues of the Crown, in the Manner prescribed by an Act passed in the Tenth Year of the Reign of His late Majesty King *George* the Fourth, Chapter Fifty, and the other Moiety thereof shall be paid by the same Commissioners to the Ecclesiastical Commissioners for *England*; but, notwithstanding this Provision for the Apportionment of the said Rents, Profits, Monies, and Proceeds, the said Ecclesiastical Commissioners shall have no Right to interfere with the Management or Disposition of such Property, which shall be managed and disposed of in all respects as Part and Parcel of the Hereditary Possessions of the Crown, and as if no such Provision as last aforesaid had been made.

Forfeitures and other Jura Regalia vested in Her Majesty in right of Her Crown.

V. All Forfeitures of Lands or Goods for Treason or otherwise, and all Mines of Gold and Silver, Treasure Trove, Escheats, Fines and Amerciaments, and all Jura Regalia, of what Nature or Kind soever, (other than any Estate and Interest in the Beds and Shores of navigable Rivers so far as the Tide flows, and in the Shore of the Sea, and any Inclosures, Embankments, and Encroachments therefrom or thereupon respectively, and as to which Premises Provision is herein-before contained,) which under the Provisions of the recited Act are vested in Her Majesty in right of the County Palatine of *Durham*, shall be and the same are hereby vested in Her Majesty, Her Heirs and Successors, in right of the Crown, and shall be exerciseable and recoverable, and the Proceeds therefrom shall be applied accordingly.

General Saving.

VI. Saving always to all and every Persons and Person, and Bodies Politic and Corporate, their, his, and her Heirs, Executors, Administrators, and Successors, (other than in the Cases already provided for and intended to be provided for by this Act,) all such Estates, Rights, Titles, and Interests as they and every or any of them had and enjoyed before the passing of the Act, or could or might have had or enjoyed in case this Act had not been passed.

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