

ANNO TRICESIMO PRIMO & TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

****

CAP. CXIV.

An Act to amend the Law relating to the Ecclesiastical Commissioners for *England*.

[31st *July* 1868.]

WHEREAS it is expedient to amend the Acts relating to the Ecclesiastical Commissioners for *England*:

Be it 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, as follows:

1. This Act may be cited as The Ecclesiastical Commission Act, 1868. Short Title.

2. In this Act the Term "Property" includes all Property, Real, Personal, and Mixed, vested in the Person or Body Corporate with reference to whom the Word is used, or to which such Person or Body is entitled, whether such Property is in possession or in reversion or contingent, or a Thing in Action, or is held in trust for him or them, or is standing in the Name of the Accountant General of the Court of Chancery. Definition of Property.

3. The

Objects of Scheme.

3. The Ecclesiastical Commissioners for *England* (in this Act referred to as the Commissioners) may, with the Consent in Writing of any Dean and Chapter in *England* under their Common Seal, and of the Visitor of such Dean and Chapter, from Time to Time lay before Her Majesty in Council Schemes for effecting with respect to the consenting Dean and Chapter all or any of the following Things; namely,

(1.) For transferring to the Commissioners the whole or some specified Part of the Property of the Dean and Chapter (except the Cathedral or Collegiate Church and the Buildings belonging thereto, and any ecclesiastical, educational, or other like Patronage,) for such Consideration, whether consisting of a Money Payment or other Property, or partly one and partly the other, and generally on such Terms, as the Commissioners think fair and reasonable, including the Extinguishment of any Right of the Commissioners to receive any Part of the Income or Property of the Dean and Chapter, or of any Member thereof:

(2.) For transferring Lands to the Dean and Chapter in lieu of any annual Sum payable to them by the Commissioners either under this Act or otherwise:

(3.) For making such incidental Provisions as may be necessary for carrying into effect any of the above-mentioned Objects.

Capital Sum for Fabric.

4. The Commissioners on a Transfer under this Act may set apart as Part of the Consideration a Capital Sum to be expended to the Satisfaction of the Commissioners in substantial Repairs, Restoration, and Improvements of the Cathedral or Collegiate Church and the Buildings belonging thereto.

Order in Council confirming Scheme to be made, &c. under 3 & 4 Vict. c. 113. ss. 84 to 89.

5. The following Sections of the Act of the Session of the Third and Fourth Years of the Reign of Her present Majesty, Chapter One hundred and thirteen, "to carry into effect, with certain Modifi- "cations, the Fourth Report of the Commissioners of Ecclesiastical "Duties and Revenues," namely, Sections Eighty-four to Eighty-nine (both inclusive), which relate to the making, publishing, and registering of an Order in Council for ratifying a Scheme, and to the laying the same before Parliament, shall apply to any Scheme made under this Act in the same Manner as if they were herein enacted.

Order to effect Transfer without Conveyance.

6. After the Date of the Publication of an Order in Council ratifying any Scheme made in pursuance of this Act, and without any further

further Conveyance or Act in the Law, the Property expressed to be thereby transferred shall (so far as the same can be vested by this Act) vest in the Transferees and their Successors, and (so far as the same cannot be so vested) shall be deemed to be held in trust for the Transferees and their Successors; and the Transferees and their Successors shall, as far as may be, take the same for the same Estate and Interest and subject to the same Liabilities for and subject to which it was held at the said Date by the Dean and Chapter or the Commissioners, as the Case may be.

Saving of Trusts.

7. Nothing in this Act, or in any Order in Council made thereunder, shall affect the Liability of any Property to any Trust other than a Trust for the Benefit of a Dean and Chapter, or some Member thereof.

Application of transferred Property.

8. All Property transferred to the Commissioners by an Order in Council under this Act shall be held by them in the same Manner, and for the same Purposes, and subject to the same Provisions, as the Property of which the Rents and Profits are to be carried over to their Common Fund, and the Income thereof shall be applied accordingly; and all Property transferred to a Dean and Chapter by an Order in Council under this Act shall be held upon the Trusts and for the Purposes directed by the Order, and subject thereto shall form Part of the Endowment of such Dean and Chapter; and any annual Sum paid to a Dean and Chapter in pursuance of an Order in Council under this Act shall be applied in the Manner in which it would be applicable if it were the Income of Property transferred to the Dean and Chapter.

Leases by Dean or Chapter when re-endowed. See 23 & 24 Vict. c. 124.

9. After the passing of this Act none of the Dean and Chapters mentioned in the Schedule to an Act of the present Session, Chapter Nineteen, intituled *An Act for declaring valid certain Orders of Her Majesty in Council relating to the Ecclesiastical Commissioners for* England, *and to the Deans and Chapters of certain Churches*, and no Dean and Chapter after the making of any Order in Council respecting them in pursuance of this Act, shall demise any Lands vested in them otherwise than from Year to Year, or for a Term of Years in possession, not exceeding Twenty-one, at the best annual Rent that can be reasonably got without Fine, and shall not make the Lessee dispunishable for or exempt from Liability in respect of Waste; and in every such Lease such or the like Covenants, Conditions, and Reservations shall be entered into, reserved, or contained with or for the Benefit

Benefit of the Dean and Chapter, and their Successors, as under Section One of the Act of the Session of the Fifth and Sixth Years of the Reign of Her present Majesty, Chapter Twenty-seven, "for "better enabling Incumbents of Ecclesiastical Benefices to demise "the Lands belonging to their Benefices on Farming Leases," are to be entered into, reserved, or contained with or for the Benefit of the Lessor and his Successors in a Lease granted under that Section, or as near thereto as the Circumstances admit.

5 & 6 Vict. c. 27.

Settlement of Treaty and its Terms may be referred to Arbitration.

10. In all Cases where an Agreement has been or shall be entered into, or a Treaty has been or shall be commenced, or is or shall be pending, between a Dean and Chapter and any of their Lessees, for any Sale and Purchase under the Acts of the Fourteenth and Fifteenth *Victoria*, Chapter One hundred and four, Seventeenth and Eighteenth *Victoria*, Chapter One hundred and sixteen, or Twenty-third and Twenty-fourth *Victoria*, Chapter One hundred and twenty-four, and the Capitular Estate is transferred to the Commissioners under the Provisions of this Act, it shall be competent to the Church Estates Commissioners to approve and confirm as heretofore such Agreement, and to continue and bring to a Conclusion and approve such Treaty: Provided always, that in the event of the Church Estates Commissioners declining to approve such Agreement or Treaty, the Ecclesiastical Commissioners shall be bound to purchase the Lessee's Interest, if required by the Lessee, with all the Benefits, as to Arbitration and otherwise, to which Lessees are entitled under the above-mentioned Acts or any of them; and in every Case the Costs of such Arbitration and Award shall be in the Discretion of the said Arbitrators or Umpire, as the Case may be.

This Act or 23 & 24 Vict. c. 124. not to affect Provisions as to Leases, &c. contained in 5 & 6 Vict. c. 108. and 21 & 22 Vict. c. 57.

11. The Provisions contained in this Act, or in the Act of the Session of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and twenty-four, "further to amend the Acts relating to the Ecclesiastical Com- "missioners, and the Act concerning the Management of Episcopal "and Capitular Estates in *England*," shall not affect any of the Provisions relating to Leases, Appropriations, Sales, or Exchanges contained in the Ecclesiastical Leasing Acts.

Amendment of Law relating to Schemes for

12. Where in pursuance of the Seventy-third Section of the Act of the Session of the Third and Fourth Years of the Reign of Her present Majesty, Chapter One hundred and thirteen, and of any Act

Act amending the same, any Scheme has, before or after the passing of this Act, been prepared, transferring or purporting to transfer to any Ecclesiastical Corporation, whether aggregate or sole, or to any Person or Persons, any Advowson or other Estate or Interest in Real or Personal Property, such Scheme, if and when the same has been ratified by Order in Council, shall, without any Deed, Conveyance, or Act in the Law, be effectual for vesting in such Corporation, Person or Persons, any such Advowson or other Interest in Real or Personal Property, and for enabling such Corporation, Person or Persons, to hold the same upon the Trusts and according to the Tenor of such Scheme, any Law or Statute to the contrary notwithstanding.

securing the better Performance of Clerical Duties in ill endowed Parishes.

13. The Provisions of this Act with respect to the Property of Deans and Chapters shall apply in the Case of the Property of any Deanery, Canonry, Prebend, Archdeaconry, or Office in any Cathedral or Collegiate Church in *England* in the like Manner, *mutatis mutandis*, as they apply to the Property of a Dean and Chapter.

Application of Act to Canonries, &c.

14. Nothing in this Act contained shall affect or apply to the Cathedral or Collegiate Church of *Manchester*, or to "The Parish of *Manchester* Division Act, 1850;" and nothing in this Act contained, except Section Twelve, shall affect or apply to the Cathedral Church of *Christ, Oxford*.

Exemption.

15. Section Five of the Act of the Session of the Twenty-ninth and Thirtieth Years of the Reign of Her present Majesty, Chapter One hundred and eleven, intituled *An Act to further amend the Acts relating to the Ecclesiastical Commissioners for* England, shall apply to all Payments, Conveyances, and Appropriations directed or made in pursuance of the Parish of *Manchester* Division Act, 1850, the *Stanhope* and *Wolsingham* Rectories Act, 1858, the *Rochdale* Vicarage Act, 1866, and the *Bishopwearmouth* Rectory Act, 1867, for providing for the Cure of Souls, or for Payments to or Endowments for Incumbents or Ministers, in the same Manner as if such Payments, Conveyances, and Appropriations were the Payments and Conveyances mentioned in the said Section Five, and every Instrument made as provided in that Section shall have Effect as if it were a Scheme ratified by an Order in Council. It shall not be necessary to publish in the *London Gazette* any Map or Plan which for the better Identification of any Property

Section 5 of 29 & 30 Vict. c. 111. to apply to all Payments, &c. under 13 & 14 Vict. c. 41., 21 & 22 Vict. c. 58., 29 & 30 Vict. c. 86., and 30 & 31 Vict. c. xxvi.

may be endorsed on or annexed to any Instrument or Grant made or passed in pursuance of the said Fifth Section or of this Section.

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