

ANNO VICESIMO PRIMO & VICESIMO SECUNDO

VICTORIÆ REGINÆ.

****

CAP. LVII.

An Act to amend the Act of the Fifth and Sixth Years of Her present Majesty, for enabling Ecclesiastical Corporations, aggregate and sole, to grant Leases for long Terms of Years.

[23d *July* 1858.]

WHEREAS an Act was passed in the Session of the Fifth and Sixth Years of the Reign of Her present Majesty, intituled *An Act for enabling Ecclesiastical Corporations, aggregate and sole, to grant Leases for long Terms of Years:* And whereas it is expedient that the said Act should be amended: Be it therefore enacted and declared 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: 5 & 6 Vict. c. 108.

I. In any Case in which it shall be made to appear to the Satisfaction of the Ecclesiastical Commissioners for *England* that all or any Part of the Lands, Houses, Mines, Minerals, or other Property of or belonging to any Ecclesiastical Corporation, which are by the said Act authorized to be leased, might, to the permanent Advantage of the Estate Leases under 5 & 6 Vict. c. 108. may be granted in consideration of Premiums; and, Sales or Ex-

changes of Lands may be effected in certain Cases.

Estate or Endowments belonging to such Corporation, be leased in any Manner, or be sold, exchanged, or otherwise disposed of, it shall be lawful for any Ecclesiastical Corporation, aggregate or sole, except as in the said Act is excepted, from Time to Time, with such Consents as in the said recited Act mentioned, and with the Approval of the said Commissioners, to be testified by Deed under their Common Seal, to lease all or any Part or Parts of the Lands, Houses, Mines, Minerals, or other Property belonging to such Corporation, whether the same shall or shall not have been previously leased or dealt with under the Provisions of the said recited Act or of this Act, and either in consideration or partly in consideration of Premiums or not, or for such other Considerations, and for such Term or Terms, and under and subject to such Covenants, Stipulations, Conditions, and Agreements on the Part of the Lessee or Lessees, and generally in such Manner as the said Commissioners shall under the Circumstances of each Case think proper and advisable; and also with the like Consents as are by the said recited Act required to the granting of a Lease (other than and except the Consent of the Lord of a Manor thereby required in regard to a Lease of Copyhold Hereditaments), and with the Approval of the said Commissioners, to be testified as aforesaid, absolutely to sell or convey in Exchange or by way of Partition, or otherwise dispose of, all or any Part or Parts of such Lands, Houses, Mines, Minerals, and other Property, whether the same shall have been previously leased under the Provisions of this Act or the said recited Act or not, for such Equivalent, either in Money, or in Lands, Tenements, or Hereditaments, or partly in Money and partly in Lands, Tenements, or Hereditaments, or for such other Considerations or Purposes, as the said Commissioners shall deem reasonable and proper, and on every or any such Exchange or Partition to give or receive, in such Manner as is herein-after mentioned, any Sum or Sums of Money by way of Equality of Exchange or Partition: Provided always, that no such Sale by the Incumbent of a Benefice as is above mentioned shall be authorized by the said Commissioners unless Three Months Notice in Writing of such proposed Sale shall have been given to the Bishop of the Diocese in which the Benefice is situate.

Application of Monies produced by Sales, &c.

II. All Sums of Money which shall be payable by way of Premium on the granting of any such Lease, and all Rents, Royalties, and other Reservations to be reserved or made payable by any such Lease of any Mines, Minerals, Quarries, or Beds, and all Monies to arise on any such Sale, or to be received on any such Exchange or Partition, shall be payable and paid to the said Commissioners as if they were the sole Lessors or Vendors of the Property leased or sold

sold in consideration thereof, and the Receipt of the Treasurer or Treasurers of the said Commissioners for the Time being shall be a good and sufficient Discharge for the Consideration for any Property so sold, and the Purchaser shall not be bound to see to the Application of such Consideration when so paid; or such Monies, or any Part thereof, may, with the Approval of the said Commissioners, be permitted to remain charged by way of Mortgage to the said Commissioners upon the Premises so leased, sold, or conveyed in Exchange or Partition, at such Rate of Interest, for such Period, and upon such Terms as the Parties, with such Approval, may agree upon; and on such Mortgage being discharged the Money thereby secured shall be paid to the said Commissioners as aforesaid; and all such Sums of Money so to arise or be received as aforesaid, after Payment of the Expenses incident to the Transaction in respect of which the same became payable, shall, at such Time or Times as the said Commissioners may think proper, be laid out by them in the Purchase of other Lands, Houses, and Hereditaments convenient to be held by the Corporation in whose Behalf the same shall have been received; and the Lands, Houses, and Hereditaments so to be purchased, and also the Lands, Houses, and Hereditaments which shall be received on any such Exchange or Partition as aforesaid, shall be conveyed and assured in such Form and Manner that the same may become the Property of and be vested in such last-mentioned Ecclesiastical Corporation for ever, and shall be subject to all the same Powers and Provisions as the Hereditaments from the leasing, selling, exchanging, or partitioning of which the Money wherewith the same were purchased would have been subject if no such Lease, Sale, Exchange, or Partition had been made, except so far as is otherwise provided by this Act, the Statute of Mortmain or any other Act or Rule of Law to the contrary notwithstanding; and until the Money so to arise or be produced or received as aforesaid shall be laid out in such Purchase, the same shall be invested, as soon as conveniently may be after the same shall have been carried to Account in the Books of the said Commissioners, in the Names of the said Commissioners for the Time being in the Public Stocks or Funds, and the Dividends thereof shall be paid to the Person or Persons to whom the Rents and Profits of the said Hereditaments to be purchased would go or belong in case such Purchase were actually made.

Power to raise Money to be paid for Equality of Exchange or Partition.

III. For the Purpose of raising any Sum or Sums of Money which may be agreed to be paid for Equality of Exchange or Partition, or for the Purchase of any Freehold Land, or of any outstanding Leasehold Interest in Land, belonging to any Ecclesiastical Corporation, over and above the Money then belonging to such Corporation and available

available for any such Purpose as aforesaid, it shall be lawful for every such Corporation, with such Approval and Consents as aforesaid, to borrow the same upon the Security and to execute a Mortgage or Mortgages of all or any Part or Parts of the Hereditaments belonging to such Corporation, for any Term or Terms of Years, redeemable on Payment of the Principal Sum or Sums so borrowed, with Interest for the same; and the Principal Money so secured may be discharged out of any Principal Monies belonging or accruing to such Corporation under the said recited Act or this Act or otherwise.

Power to enter into and vary Contracts and accept Surrenders.

IV. For all or any of such Purposes as aforesaid, it shall be lawful for every such Ecclesiastical Corporation, with such Approval and Consents as aforesaid, from Time to Time to enter into, make, and execute such Contracts and Agreements, and to grant such Licences or Permissions to search for Mines, and such other Powers preliminary to or consequent upon any such Contract, and also to alter, vary, or rescind the same, and accept Surrenders of any Lease or Leases, and release any Lessee or Lessees in respect of Breaches of Covenant, in such Manner and for such Considerations as to the said Commissioners shall appear advisable; and the Lands with respect to which any Contract shall be abandoned or Surrender taken shall be subject to all the Powers and Provisions of the said recited Act and of this Act; and all Contracts and Agreements so entered into by any Person as aforesaid in his Corporate Capacity shall be binding upon his Successors, and may be enforced against them.

Provision for Payment of Expenses of Leases.

V. Any Ecclesiastical Corporation as aforesaid, with the Approval of the said Commissioners, may charge the Amount of the Expenses to be incurred in carrying into effect any of the Provisions of the said recited Act or of this Act on any Lands, Tenements, or Hereditaments belonging to such Corporation, but so nevertheless that the Charge upon such Lands shall be lessened in every Year following by One Twentieth Part at the least of the whole original Charge thereon.

This Act not to interfere with the Act 14 & 15 Vict. c. 104.

VI. Provided always, That no Sale, Exchange, or Partition shall be made under the Provisions of this Act of any Lands or Hereditaments held so as to be capable of being sold, enfranchised, or conveyed in Exchange, according to the Provisions of an Act passed in the Fourteenth and Fifteenth Years of Her Majesty, Chapter One hundred and four, so long as any of the Powers contained in the said Act for Sale, Enfranchisement, or Exchange shall remain in force with reference to such Lands or Hereditaments.

VII. Pro-

This Act not to repeal Powers under former Acts.

VII. Provided also, That nothing in this Act contained shall repeal any of the Powers or Authorities vested in the said Commissioners by an Act of the Sixth and Seventh Years of Her Majesty's Reign, intituled *An Act to make better Provision for the Spiritual Care of populous Parishes*, or in any other Act relating to the Ecclesiastical Commissioners for *England*, with respect to or over Lands, Tithes, Rentscharge, Tenements, and other Hereditaments vested or liable to be vested in them, or to repeal or alter any of the Powers or Authorities contained in any of the Acts now in force for or relating to the Enfranchisement of Copyholds, or in any of the Acts for the Inclosure of Commons or other Lands or Grounds, or in any of the Church Building Acts, so far as any of such Powers or Authorities apply to or affect the Estates of Ecclesiastical Corporations; but the Powers and Authorities contained in this Act shall be considered cumulative or alternative to the Powers and Authorities contained in the said several other Acts herein-before referred to.

On Sale or Purchase of Part of Estate held under a Lease the Rent to be apportioned.

VIII. Upon the Sale or Purchase on behalf of any Ecclesiastical Corporation of the Estate or Interest of any Lessee in a Part only of the Lands comprised in any Lease, whereby the Leasehold Interest in the Land so sold or purchased shall become extinguished in the Reversion, it shall be lawful for the said Commissioners, by a Memorandum in Writing under their Common Seal, which may be endorsed on such Lease, to apportion the Rent reserved thereby, and declare what Part thereof shall continue payable thereunder, and thereupon such apportioned Part of the Rent shall be payable as if the same had been the Rent originally reserved in respect of the Lands not sold or purchased; and such Apportionment shall be valid and binding upon or against all Persons interested in such last-mentioned Lands; and where the Rent originally reserved was an ancient and accustomed Rent, the Part so continuing payable shall be deemed and taken to be the ancient and accustomed Rent for the Lands not sold or purchased, and the Reservations, Covenants, and Agreements contained in such Lease, and the Powers and Authorities of any such Ecclesiastical Corporation, so far as the same shall be applicable to the Lands not sold or purchased, shall remain in full Force as if such Sale or Purchase had not been made.

No Lease to be granted of Land acquired under the Act, except at Rack-rent.

IX. No Lease of any Lands purchased or acquired, or in which the Estate or Interest of a Lessee, or of a Holder of Copyhold or Customary Land, shall be purchased or acquired by any Ecclesiastical Corporation under this Act, shall (except under the express Power contained in the said recited Act of the Fifth and Sixth Years of Her Majesty's Reign, or in this Act,) be made or granted otherwise than from Year to Year, or for a Term of Years in possession, not exceeding

ing Fourteen Years, at the best annual Rent that can be reasonably gotten, without Fine, and the Lessee not to be made dispunishable for Waste or exempted from Liability in respect of Waste.

Improved Value of Dignities, Offices, and Benefices to be paid to Commissioners.

X. All the Clauses contained in the said first-recited Act respecting Improvements in the annual Value of any Dignity, Office, or Benefice by means of any Lease granted under that Act shall extend and apply to any Improvement of Income which may accrue by means of any Lease, Sale, Exchange, Partition, Purchase, or Investment to be granted or made under the Provisions of this Act; save and except that with respect to all Improvements of Income which have accrued or shall accrue to any Benefice under the Provisions of the said recited Act or this Act it shall be lawful, by the Authority in the said recited Act mentioned, and subject to the like Notice being given to the Patron or Patrons of such Benefice as is by the said Act required, at any Time or Times after the Commencement of such Improvement, and notwithstanding the Period of Three Years limited by the said Act may have expired, to direct that from such Time (not operating retrospectively, nor so as to affect the Incumbent in possession at the Time of the granting of any such Lease) as shall be fixed by the said Commissioners such Portion of the improved Income as the said Commissioners shall deem expedient shall be paid to the said Commissioners, to be applied according to the Directions in that Behalf contained in the said Act; and also save and except that the Clause No. XIV. of the said Act entitled in the Margin thereof, "Portion of improved Value under Mining Leases to be paid to "Commissioners," shall be and the same is, so far as it relates to any Lease to be hereafter granted by any Rector, Vicar, or Incumbent of any other Benefice with Cure of Souls, hereby repealed.

Sect. 18. of 5 & 6 Vict. c. 108. repealed.

XI. The Clause No. XVIII. of the said recited Act, entitled in the Marginal Note "Surveyor to make Valuation, &c. when a new "Lease is intended," shall be and the same is hereby repealed.

Other Clauses not hereby repealed incorporated in this Act.

XII. All the several Clauses and Provisions contained in the said recited Act of the Fifth and Sixth Years of Her Majesty's Reign which are not by this Act expressly or by necessary Implication repealed, so far as the same are applicable, and are not modified by this Act or inconsistent with the Provisions thereof, shall be incorporated with and be construed as forming Part of this Act.

Short Titles.

XIII. In citing the said recited Act of the Fifth and Sixth Years of Her Majesty's Reign, or this Act, in any other Act of Parliament, or in any legal Instrument, it shall be sufficient to use the Expression "The

"The Ecclesiastical Leasing Acts," or "The Ecclesiastical Leasing Act, 1842," or "The Ecclesiastical Leasing Act, 1858," as the Case may be.

XIV. 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*. Act to extend only to England and Wales. Isle of Man, &c.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1858.