

ANNO DECIMO QUARTO & DECIMO QUINTO

VICTORIÆ REGINÆ.

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CAP. CIV.

An Act to facilitate the Management and Improvement of Episcopal and Capitular Estates in *England*. [8th *August* 1851.]

WHEREAS it would tend to the Improvement of Episcopal and Capitular Estates in *England*, without Prejudice to the Interests of Persons holding Leases granted thereof, if Facilities were given for such Dealings as herein-after mentioned between Ecclesiastical Corporations and their Lessees: 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, as follows:

Power of Ecclesiastical Corporations, with Approval of Church Estate Commissioners, to sell, enfranchise, or exchange Church Lands, or to

I. It shall be lawful for any Ecclesiastical Corporation, sole or aggregate, with the Approval in Writing of the Church Estates Commissioners, who shall pay due Regard to the just and reasonable Claims of the present Holders of Lands under Lease or otherwise arising from the long continued Practice of Renewal, to sell to any Lessee under any Lease granted by such Corporation the Reversion, Estate, and Interest of such Corporation in all or any of the Lands comprised in such Lease, for such Consideration, upon such Terms, and in such Manner as such Corporation and Lessee may, with

purchase the Interests of their Lessees.

with such Approval as aforesaid, think fit; and it shall be lawful for any such Ecclesiastical Corporation, with such Approval as aforesaid, to enfranchise any Copyhold or Customary Land held of any Manor belonging to such Corporation, or to exchange with any Lessee under any Lease granted by such Corporation all or any of the Lands therein comprised, or the Reversion, Estate, and Interest therein of such Corporation, for any other Lands, whether of Freehold, Copyhold, or Customary Tenure, or for the Estate and Interest of such Lessee in any other Lands belonging to such Corporation, and upon any such Exchange either to receive or pay any Money by way of Equality of Exchange; and it shall also be lawful for any such Corporation, with such Approval as aforesaid, to purchase the Estate and Interest of any such Lessee in any Lands belonging to such Corporation, or of any Holder of Copyhold or Customary Land of any such Manor: Provided that where the Estate or Interest of any Ecclesiastical Corporation in any Tithes or Tithe Rentcharges, or any Hereditaments allotted or assigned in lieu of Tithes, is proposed to be sold or given in exchange by such Ecclesiastical Corporation under the Powers of this Act, the Church Estates Commissioners, before they approve such Sale or Exchange, shall bring the Wants and Circumstances of the Places in which such Tithes arise or have arisen under the Notice of the Ecclesiastical Commissioners for *England*, and, where the said Ecclesiastical Commissioners shall so direct, the Church Estates Commissioners shall, as a Condition of their Approval of such Sale or Exchange, require such Augmentation or Provision to be made in respect of the Spiritual Wants of such Place out of the Monies to arise or the Property to be taken under such Sale or Exchange as the said Ecclesiastical Commissioners shall think fit.

Provision for Apportionment of Rent on Surrender of Part of Lands comprised in any Lease.

II. Upon the Surrender to any Ecclesiastical Corporation of the Estate or Interest of any Lessee in a Part only of the Lands comprised in any Lease, it shall be lawful for the Church Estates Commissioners, by a Memorandum in Writing under the Hands of such Commissioners 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 surrendered; 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 surrendered; 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 surrendered, shall remain in full Force as if such Surrender had not been made.

III. The

The Interests acquired by Lessees to be subject to the Equities and bound by the Covenants of Renewals to which their Leases may be subject.

III. The Interest in Lands acquired by any Lessee under this Act shall be deemed in Equity to be acquired in respect of his Interest under his Lease, and shall be subject to the same Trusts, Charges, and Incumbrances as his Lease or any Lease obtained on a Renewal thereof would have been subject to, so far as the different Natures of the Property will admit; and all Covenants and Agreements which would have entitled any Sub-lessees or others to derivative Interests upon Renewals of such Lease upon Contribution to the Fines and other Payments upon Renewal or otherwise, shall give the like Rights, so far as the Nature of the Property will admit, to proportionate Shares and Benefits out of and in respect of any Interest in Lands which may be acquired under this Act by the Lessee, who may be subject to such Covenants or Agreements upon a proportionate Contribution to or in respect of the Costs, Payments, or Consideration paid or given for the Interest so acquired by such Lessee.

Leaseholders Interest not to be purchased without Consent of Sub-lessees, who have Covenants of Renewals.

IV. That if any Lands held under Lease from an Ecclesiastical Corporation shall have been sub-let with a Covenant on the Part of the original Lessee to renew the Under-lease upon any Renewal of the original Lease, the Interest of the Lessee in such Lands shall not be taken by way of Purchase under this Act by any Ecclesiastical Corporation without the Consent in Writing of such Sub-lessee: Provided always, that such Ecclesiastical Corporation shall not be prevented from making such Purchase, nor shall their Title to any such Lands be affected in respect of the Existence of any such Under-lease, unless the said Corporation shall have had direct Notice thereof in Writing; but the Sub-lessee shall, in Cases where a Sale shall have been made without such Notice, be entitled to recover such Damages for the Loss of the Benefit of such Covenant against the Party bound by the Covenant for the Loss to be sustained by him as he would be entitled to in respect of its Nonperformance on a Renewal by the original Lessee.

Confirmation of Conveyances by Church Estates Commissioners sufficient.

V. Any Conveyance, Assignment, or other Assurance of Lands to be made to or by any Ecclesiastical Corporation, upon any Sale, Enfranchisement, Exchange, or Purchase under this Act, shall be made in such Form and Manner as the Church Estates Commissioners shall from Time to Time direct, and shall be confirmed by the Church Estates Commissioners, and, being so confirmed, shall be valid and effectual, and shall not require any other Confirmation (as respects the Execution of the same by any such Ecclesiastical Corporation); and no Purchaser or other Person deriving Title under any such Assurance so confirmed as aforesaid upon any Sale, Enfranchisement, or Exchange by an Ecclesiastical Corporation shall be concerned

cerned to inquire into the Propriety of such Sale, Enfranchisement, or Exchange, or the Sufficiency of the Consideration for the same.

Monies to arise from Sale, Exchange, or Enfranchisement to be laid out as hereinbefore authorized, or in the Purchase of other Lands.

VI. All Monies which, on any Sale, Exchange, or Enfranchisement under this Act, shall be received by or become payable to or for the Benefit of any Ecclesiastical Corporation, shall be paid into the Bank of *England* to such Account as the Church Estates Commissioners shall from Time to Time appoint in that Behalf; or such Monies, with the Approbation of the Church Estates Commissioners, shall remain at Interest as a Charge by way of Mortgage upon the Premises enfranchised, at such a Rate, for such a Period, and upon such Terms as the Parties, with such Approbation as aforesaid, may agree upon; and the Receipt of the Church Estates Commissioners shall be an effectual Discharge for any Money therein expressed to be received; and all Monies so paid into the Bank of *England* shall be from Time to Time applied in Payment for Equality of Exchange as aforesaid, or in such Purchases as hereinbefore authorized, or shall be laid out by such Corporation, with such Approval as aforesaid, in the Purchase of other Lands, to be conveyed to the Use or for the Benefit of such Corporation; and the Monies from Time to Time remaining unapplied for the Purposes aforesaid shall be invested by and in the Names of the Church Estates Commissioners in the Purchase of Government Stocks, Funds, or Securities, and such Church Estates Commissioners may sell and dispose of the same for the Purposes of this Act as Occasion may require; and the Interest, Dividends, and annual Proceeds of such Monies, Stocks, Funds, and Securities shall be paid to the Corporation which would for the Time being have been entitled to the Rents and Profits of the Lands sold, enfranchised, or exchanged, subject to the Provisions herein contained.

Monies applicable to the Purchase of Lands for the Use of an Ecclesiastical Corporation may be applied in purchasing the Interests of Lessees, or in Payments for Equality of Exchange.

VII. All other Monies, Stocks, Funds, and Securities for the Time being subject to be invested in the Purchase of Lands to be conveyed to the Use or for the Benefit of any Ecclesiastical Corporation may, with such Approval as herein mentioned, be applied in or towards the Purchase of the Estates or Interests of Lessees in any Lands belonging to such Corporation, or of the Estates or Interests of any Holders of Copyhold or Customary Land of any Manor belonging to any such Corporation, or in or towards Payments for Equality of Exchange under this Act.

Provision in case of Increase or Deficiency of Income in consequence of Sales, &c.

VIII. If it appear to the Church Estates Commissioners that by means of any Sale, Enfranchisement, Exchange, Purchase, or Investment under the Powers of this Act, the Income which any Person, being an Ecclesiastical Corporation Sole, or Member of an Ecclesiastical

siastical Corporation Aggregate, might have received if this Act had not been passed has been or may be increased, it shall be lawful for the Church Estates Commissioners to require, in respect of such Increase, Payment to be made, either immediately or upon any Contingency, to the Church Estates Commissioners, by or on account of the Person receiving such Increase during his Incumbency, of such annual or other Sum as the Church Estates Commissioners may, under the Circumstances of each Case, think proper, and to enforce such Payment by an Action of Debt to be brought in the Name of the Ecclesiastical Commissioners for *England;* and the Church Estates Commissioners may, on giving their Approval under this Act to any Sale, Enfranchisement, Exchange, Purchase, or Investment, make such Payment a Condition of such Approval, but not so as to affect the Title under such Sale, Enfranchisement, Exchange, or Purchase, and may, for securing such Payment, require any Security, by way of Charge or otherwise, as to them may seem proper, and the Payments to be so made shall be dealt with by such Church Estates Commissioners as Part of the Common Fund of the said Ecclesiastical Commissioners for *England;* and where it appears to the Church Estates Commissioners that by means of any such Sale, Enfranchisement, Exchange, Purchase, or Investment the Income which any such Person might have received has been diminished, such Commissioners shall, out of any Monies received by them under this Act on behalf of such Corporation, or the Investments thereof, pay to such Person from Time to Time such annual or other Sum as to such Commissioners may appear sufficient to make up the Deficiency caused by such Diminution.

How Leases of Lands acquired by any Ecclesiastical Corporation under this Act may be made.

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, is purchased or acquired, by any Ecclesiastical Corporation under this Act, shall, except as herein-after provided, be granted by such Ecclesiastical Corporation, otherwise than from Year to Year, or for a Term of Years in possession not exceeding Fourteen Years, at the best annual Rent that can be reasonably gotten, without Fine, the Lessee not to be made dispunishable for Waste or exempted from Liability in respect of Waste: Provided always, that it shall be lawful for such Ecclesiastical Corporation, with the Approval of the Church Estates Commissioners, from Time to Time to grant Mining or Building Leases of any such Lands, for such Considerations, upon such Terms, and generally in such Manner as such Commissioners, under the Circumstances of each Case, may think fit; and it shall be lawful for such Commissioners to require that any Portion of the Rent received on any such Lease shall be invested and disposed of in like Manner as herein provided with respect to Monies to be received on the Sale of any Lands by any such Corporation.

X. The

General Report of Proceedings of Church Estates Commissioners to be sent annually to Secretary of State.

X. The Church Estates Commissioners shall from Time to Time give to any One of Her Majesty's Principal Secretaries of State such Information respecting their Proceedings or any Part thereof as the said Principal Secretary of State shall require, and shall on or before the First Day of *March* in every Year send to One of the Principal Secretaries of State a General Report of their Proceedings under this Act, together with a Schedule of all Applications for Enfranchisement or Purchase of Interests of Lessees, specifying the Terms proposed, the Terms on which such Enfranchisement or Purchase shall have been effected, and, if refused, the Grounds of such Refusal, and every Year such General Reports shall be laid before both Houses of Parliament within Six Weeks after the Receipt of the same by such Principal Secretary of State, if Parliament be sitting, or if Parliament be not sitting, then within Six Weeks after the next Meeting thereof.

Interpretation:

XI. In the Construction of this Act, unless such Meaning be repugnant to the Context, the following Words and Expressions shall have the Meanings hereby assigned to them respectively; (that is to say,)

"Ecclesiastical Corporation:"

The Expression "Ecclesiastical Corporation" shall include every Archbishop, Bishop, Dean and Chapter, Dean, Archdeacon, Canon, Prebendary, and other Dignitary or Officer of any Cathedral or Collegiate Church in *England* and *Wales*, and every minor Ecclesiastical Corporation in any such Cathedral or Collegiate Church, but shall not include the Dean and Canons of the Cathedral Church of *Christ* in *Oxford*, or any College or Hospital, or any Parson, Vicar, or Perpetual Curate, or other Incumbent of any Benefice:

"Lease:"

The Word "Lease" shall include Grant by Copy of Court Roll:

"Lands:"

The Word "Lands" shall include Tithes and Tithe Rentcharges, and other Tenements and Hereditaments, corporeal and incorporeal (except Advowsons):

"Lessee."

The Word "Lessee" shall include any Person or Body Corporate in whom any subsisting Lease or Grant, or the Term or Estate thereby granted in the whole or in any Part of the Lands comprised in such Lease, is, either by the original Grant or Demise, or by Assignment, Devise, or Operation of Law, for the Time being vested.

Duration of Act.

XII. That this Act be limited in Duration to Three Years from the End of the present Session of Parliament.

LONDON:
Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1851.