CHAPTER clxxvi.

An Act for the Commutation of Tithes in the City of London; and for other purposes. [21st July 1879.] A.D. 1879.

WHEREAS an Act was passed in the thirty-seventh year of the reign of King Henry the Eighth, chapter twelve, with respect to the payment of tithes in London:

And whereas an Act was passed in the session of Parliament held in the twenty-second and twenty-third years of the reign of King Charles the Second, chapter fifteen, for the better settlement of the maintenance of the parsons, vicars, and curates in the parishes of the City of London burnt by the great fire of London in the year one thousand six hundred and sixty-six:

And whereas an Act was passed in the forty-fourth year of the reign of King George the Third, chapter eighty-nine, for the relief of certain incumbents of livings in the City of London:

And whereas, notwithstanding the said Acts, disputes have from time to time arisen with respect to the payments to be made in respect of tithes within the City of London:

And whereas several Local and Personal Acts have from time to time been passed under the provisions of which certain of such disputes have been settled and a commutation has been made of the payments in respect of tithes in certain parishes within the City of London (which parishes are in this Act referred to as "Commutation Parishes"):

And whereas an Act was passed in the session of Parliament held in the sixth and seventh years of the reign of his late Majesty King William the Fourth, chapter seventy-one, intituled "An Act for the Commutation of Tithes in England and Wales," (which Act is in this Act referred to as the Tithe Commutation Act, 1836,) for the purpose of providing the means for an adequate compensation for tithes and for the commutation thereof:

And whereas by the Tithe Commutation Act, 1836, it was enacted that the provisions thereof should not extend to any payment instead of tithes arising or growing due within the City of London:

A.D. 1879.

And whereas divers Acts have been since passed altering, extending, affecting, and amending the Tithe Commutation Act, 1836, (which Acts together with the Tithe Commutation Act, 1836, so far as the same are in force, are in this Act collectively referred to as the "Tithe Acts,") but not altering the said exception:

And whereas it is expedient that, except as by this Act specially provided, the provisions of the Tithe Acts should be extended and applied to the commutation of tithes and of payments instead of tithes arising or growing due within the City of London elsewhere than in commutation parishes, and also that the provisions of the Tithe Acts with respect to the redemption of rentcharges should be extended and applied to the redemption of all rentcharges charged on land under this Act and to the redemption of all tithe rates, rates, assessments, or yearly or other payments whatsoever in lieu of tithes payable within the City of London in commutation parishes or in respect of the certain annual maintenance of parsons, vicars, and curates under the herein-before recited Acts of Charles the Second and George the Third:

42 & 43 Vict. c. xciii.

And whereas an Act has been passed in the present session of Parliament for the commutation of tithes in the parish of Christ Church, Newgate Street, in the City of London, by the payment (subject to the provisions of the said Act) of two annual sums of one thousand eight hundred pounds and one hundred pounds to the Governors of Saint Bartholomew's Hospital (which Act is hereinafter referred to as "the Christ Church Act"):

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and 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:

Short title.

1. This Act may be cited as the London (City) Tithes Act, 1879.

Extent of Act.

2. This Act shall extend only to the City of London.

Interpretation of terms.

3. Expressions to which meanings are assigned by the Tithe Acts have in this Act the same meanings respectively; provided always that—

The expression "the passing of this Act" shall be construed to mean the passing of the present Act:

The word "tithes" shall, in addition to the meaning assigned to it by section twelve of the Tithe Commutation Act, 1836, mean and include any annual fixed tithes and any payment instead of tithes arising or growing due within the City of London:

The expression "customary payment" shall include any regular payment instead of tithes made and accepted unconditionally during a period of twenty-one consecutive years immediately preceding the first day of October one thousand eight hundred and seventy-eight and amounting in each of such years to the same annual sum:

The expression "landowner" or "owner of lands" shall not include the owner of any lands exempt from tithes;

The expression "uncommuted tithes" in this Act shall mean all tithes arising or growing due within the City of London elsewhere than in commutation parishes, and not being annual certain tithes or sums of money in lieu of tithes fixed and payable in respect of the certain annual maintenance of parsons, vicars, and curates under the herein-before recited Acts of Charles the Second and George the Third, or sums payable by way of rates or assessments or otherwise under the said Acts for the raising and paying of such annual maintenance.

Extension and application of Tithe Acts to uncommuted tithes in City of London.

4. From and after the passing of this Act the provisions of the Tithe Acts, except such of the same as are specified in the Schedule to this Act annexed, shall extend and apply to all uncommuted tithes and to the commutation of the same, and the redemption of rentcharges charged on land in lieu thereof, and otherwise generally thereto, except only so far as such provisions or any of them are altered or varied by or are inconsistent with or inapplicable to any of the provisions of this Act.

Amending, for purposes of this Act, 6 & 7 W. 4. c. 71. s. 19. as to estimating interest of landowners in case of agreements, &c.

5. The proportional interest of the owners of lands or tithes shall be estimated for the purpose of agreements, provisional agreements, or notices under the Tithe Acts and this Act in manner prescribed by section 19 of the Tithe Commutation Act, 1836, but lands subject to the payment of poor rates but exempt from tithes shall be excluded, and lands subject to tithes but not rateable to the relief of the poor shall, according to their net annual value, be included.

Amending, for purposes of this Act, 6 & 7 W. 4. c. 71. s. 21. as to form, &c. of agreement.

6. For the purposes of this Act any agreement made in pursuance of section twenty-one of the Tithe Commutation Act, 1836, shall be in such form and shall state such particulars as the Tithe Commissioners shall, in their discretion, having regard to the provisions of this Act, from time to time prescribe, anything in the said section to the contrary notwithstanding.

Amending, for purposes

7. After the first day of October one thousand eight hundred and eighty-one the Tithe Commissioners shall proceed, in manner

A.D. 1879.

of this Act, 6 & 7 W. 4. c. 71. s. 36. as to awards where no previous agreement made.

by the Tithe Acts and this Act prescribed, to ascertain and award the total sum to be paid by way of rentcharge instead of the uncommuted tithes of every parish in which no agreement binding upon the whole parish has been made and confirmed in relation thereto under the provisions of the Tithe Acts and this Act, and for the purposes of this Act section thirty-six of the Tithe Commutation Act, 1836, shall be read and construed as though for the year "one thousand eight hundred and thirty-eight" mentioned therein the year "one thousand eight hundred and eighty-one" had been therein substituted.

How value of tithes is to be calculated.

8. In every case in which the Tithe Commissioners intend making any award of the total sum to be paid by way of rentcharge instead of the uncommuted tithes of any parish under the authority of the Tithe Acts and this Act notice thereof shall be given in such manner as to them may seem fit, and after the expiration of twenty-one days after such notice has been given the Tithe Commissioners or some assistant commissioner shall proceed to ascertain the clear average value (after making all just deductions on account of collection) of the uncommuted tithes of such parish according to the average of the actual sums received by way of such tithes during any period of seven consecutive years, to be selected in each case at the discretion of such Tithe Commissioners or assistant commissioner, out of the period of twenty-one years immediately preceding the first day of October in the year one thousand eight hundred and seventy-eight.

Apportionment of rentcharges.

9. When making any apportionment of the total sum agreed or awarded to be paid by way of rentcharge instead of the uncommuted tithes of any parish under the authority of the Tithe Acts and this Act the valuer or valuers, if no principles have been agreed upon for the guidance of such valuer or valuers at the meeting at which he or they was or were chosen, or the Tithe Commissioners or any assistant commissioner making such apportionment, shall, notwithstanding anything in the Tithe Acts to the contrary, have regard to the average of the actual sums paid by way of such tithes in respect of such lands during any period of seven consecutive years, to be selected in each case at the discretion of such valuer, valuers, commissioners, or assistant commissioner, out of the period of twenty-one years immediately preceding the first day of October in the year one thousand eight hundred and seventy-eight, and shall make such apportionment according to his or their discretion and judgment, but subject in each case to the provisions of this Act, and so that in each case the several lands shall have the full benefit of every modus and com-

position, real, prescriptive, and customary payment, and of every exemption from or non-liability to tithes relating to the said lands respectively: Provided that, in making an apportionment of any total sum awarded to be paid by way of rentcharge as aforesaid, the period of seven years to be selected for the purposes of such apportionment shall be the same period of seven years as was selected for the purpose of making such award.

As to payments by any impropriators for annual maintenance of the incumbents in case of redemption of rentcharge.

10. In any parish where there is an impropriation and the impropriator is liable at the time of the passing of this Act to pay and allow any annual sum to the incumbent of such parish as part of the annual maintenance of such incumbent, and the tithes payable to such impropriator shall have been commuted for a rentcharge or rentcharges charged upon the lands in such parish, the impropriator shall continue liable to the payment of such annual sum; and in case any such rentcharge or rentcharges, or any part thereof, are redeemed under the provisions of this Act the consideration money for every such redemption shall be paid to the Ecclesiastical Commissioners for England until the sum or sums so paid as aforesaid has or have formed a fund of such amount as in the opinion of the Tithe Commissioners will, when invested in the three pounds per cent. consolidated bank annuities, produce an annual income equal, as near as may be, to the annual sum payable to such incumbent as aforesaid, and when such fund has been so formed any such consideration money, or any part thereof not required for the purpose of forming such fund as aforesaid, shall be paid and applied in accordance with the provisions of the Tithe Acts: All moneys paid to the said Ecclesiastical Commissioners in pursuance of this section shall be held by them on behalf of the benefice of such incumbent, with power, with the consent of the incumbent for the time being of such benefice, to invest the same in such manner as they shall think fit, as if the same were a benefaction held by them on behalf of such benefice; and the receipt of the treasurers of the said Ecclesiastical Commissioners shall be a sufficient discharge for such consideration, and the person paying the same shall not be concerned to see to the application or disposal thereof.

Amendment of Tithe Acts as to consideration for redemption of rentcharges.

11. Notwithstanding anything in the Tithe Acts contained the consideration to be paid for the redemption under this Act of any rentcharge shall be such sum as will, in the opinion of the Tithe Commissioners, after payment thereout of all costs of investment, if invested in the three pounds per cent. consolidated bank annuities, produce an annual amount equal, as near as may be, to the annual amount of such rentcharge; and the costs and expenses of the parties to any redemption, including any fees payable to the Tithe Commis-

A.D. 1879.

sioners, shall be paid by the party redeeming; and where such rentcharge is payable to or is charged, assessed, or paid for the purpose of raising any annual sum payable to any spiritual person in right of any benefice or cure the same shall not be redeemed without the consent of such spiritual person.

Provisions as to redemption of tithe rates, &c. in certain parishes.

12. The provisions of the Tithe Acts and of this Act with respect to the redemption of rentcharges charged on land in lieu of tithes shall, except as varied by this Act, extend and apply to the redemption of all tithe rates, rates, assessments, and yearly or other payments payable in lieu of tithes in respect of property in commutation parishes for the purpose of making up the total annual sum in consideration of which tithes in any such parish were commuted (which sum is herein-after referred to in relation to any such parish as "the fixed annual commutation payment"), and also to the redemption of all rates, assessments, and yearly or other payments, of whatever amount, payable in respect of property in certain parishes, under the herein-before recited Acts of Charles the Second and George the Third, in lieu of tithes for the raising and paying of the certain annual maintenance of parsons, vicars, and curates as by the said last-mentioned Acts prescribed (which certain annual maintenance is herein-after referred to in relation to any such parish as "the fixed annual maintenance payment"), as though such rates, assessments, and payments were apportioned rentcharges: Provided always that—

(1.) The consideration to be paid for the redemption of any such tithe rate, rate, assessment, or payment payable in respect of any property shall be calculated as though such tithe rate, rate, assessment, or payment were a rentcharge charged on such property of an amount equal to the average annual amount paid in respect of such property on account of such tithe rate, rate, assessment, or payment during the seven years next preceding the first day of January then last past; and the Tithe Commissioners shall grant a certificate of the redemption of any such tithe rate, rate, assessment, or payment, subject to the like conditions, in like manner, and with the like effect as though the redemption of such tithe rate, rate, assessment, or payment were the redemption of a rentcharge under the Tithe Acts:

(2.) The consideration, whatever may be its amount, shall be paid to the persons and applied in the manner prescribed by the Tithe Acts with respect to the payment and application of the consideration for the redemption of rentcharges, save that where such rentcharge is payable to or

is charged or paid for the purpose of raising any annual sum payable to any spiritual person the consideration shall be paid, not to the Governors of Queen Anne's Bounty for the Augmentation of the Maintenance of the Poor Clergy, but to the Ecclesiastical Commissioners for England, who shall hold the same on behalf of the benefice of such spiritual person, with power, with the consent of the incumbent for the time being of such benefice, to invest the same in such manner as they shall see fit, as if the same were a benefaction held by them on behalf of such benefice, and the receipt of the treasurers of the said Commissioners shall be a sufficient discharge for such consideration, and the person paying the same shall not be concerned to see to the application or disposal thereof:

(3.) Whenever any tithe rate, rate, assessment, or payment payable in respect of any property in any parish for the purpose of making up the fixed annual commutation payment or of raising the fixed annual maintenance payment in such parish has been redeemed then and in every such case the fixed annual commutation payment or the fixed annual maintenance payment for the purpose of making up or raising which such tithe rate, rate, assessment, or payment was payable shall, from and after the redemption of such tithe rate, rate, assessment, or payment, be diminished by an annual sum to be prescribed by order of the Tithe Commissioners, and which shall be equal to the sum in respect of which the amount of the consideration paid for such redemption as aforesaid was calculated, and thereafter the amount of the fixed annual commutation payment or of the fixed annual maintenance payment payable in such parish, so diminished as aforesaid, shall, until further diminished in manner aforesaid, be deemed to be and shall be the fixed annual commutation payment or the fixed annual maintenance payment, as the case may be, payable in such parish, and shall from time to time be raised, collected, and paid in respect of the like property and by the like persons, subject to the like conditions and exemptions, in like manner, and with the like remedies as though the amount so diminished had been the amount of the fixed annual commutation payment or of the fixed annual maintenance payment payable in such parish in the first instance before any diminution in the same, and as though the property in respect of which the tithe rate, rate, assessment, or pay-

A.D. 1879.

ment in respect of the redemption of which such diminution was made had not been liable thereto:

(4.) For the purposes of redemption the property in respect of which any such tithe rate, rate, assessment, or payment is paid shall be deemed to be land charged with a rentcharge, and such tithe rate, rate, assessment, or payment shall be deemed to be a rentcharge, and the person entitled to receive the amount for the purpose of making up or raising which such tithe rates, rates, assessments, or payments in any parish are made shall be deemed to be the person entitled to receive such rentcharge within the meaning and for the purposes of the Tithe Acts and of this Act:

(5.) Any two or more owners of different properties in any parish in respect of which any such tithe rates, rates, assessments, or payments are repectively paid may jointly exercise the powers of this Act for the redemption of such tithe rates, rates, assessments, or payments as though the said properties were one property and they were the owners of the same.

As to redemption of certain payments under 42 & 43 Vict. c. xciii.

13. From and after the twenty-ninth day of September one thousand eight hundred and eighty the provisions of the Tithe Acts and of this Act with respect to the redemption of rentcharges shall extend and apply to the redemption of the annual payments instead of tithes making up the annual sum of one thousand eight hundred pounds charged on or leviable in respect of lands in the parish of Christ Church, Newgate Street, under the Christ Church Act, and also to the redemption of all rates, assessments, and yearly or other payments of whatever amount payable in respect of property in that parish under the herein-before recited Acts of Charles the Second and George the Third in lieu of tithes for the raising and paying of the certain annual maintenance of parsons, vicars, and curates, as by the said last-mentioned Acts prescribed, and for the purposes of redemption the last of such annual payments payable immediately preceding such redemption shall be deemed to be the rentcharge to be redeemed, but save as to the aforesaid redemption this Act shall not extend or apply to the said parish.

Costs of commutation and redemption.

14. The costs and expenses incurred in commuting any such tithes or other payments instead of tithes, including the expenses of the attendance of an assistant commissioner at any meeting which may be necessary in relation to such commutation, shall be borne and paid as the expenses of an original award or of an

A.D. 1879.

original apportionment are directed to be borne and paid under the Tithe Acts as the said commissioners may see fit, and all commutations and redemptions effected under this Act shall be chargeable with and subject to the fees authorised to be taken by the said commissioners by the Act 31 and 32 Vict. cap. 89 with the approval from time to time of the Lords Commissioners of Her Majesty's Treasury.

Saving rights of the Mayor and Court of Aldermen.

15. Except as in this Act expressly provided, nothing therein contained shall take away, abridge, or prejudicially affect any right or authority of the Mayor and Court of Aldermen in the City of London under the herein-before recited Acts, or any of them.

Saving as to parish of St. Botolph without Aldgate and as to rights of Edward Jeffries Esdaile.

16. Nothing in this Act contained shall apply to or in anywise affect the parish of Saint Botolph without Aldgate or any rights of Edward Jeffries Esdaile or his successors in title to tithes or payments instead of tithes arising or growing due within the said parish.

Expenses of Act.

17. The costs, charges, and expenses of and preliminary and incidental to the preparation and obtaining and passing of this Act shall be paid by the Mayor, Commonalty, and Citizens of the City of London out of their corporate funds.

A.D. 1879.

SCHEDULE.

Provisions excepted from extension by foregoing Act.

Session and Chapter.	Title of Act.	Parts of Act excepted.
6 & 7 William 4, cap. 71.	An Act for the Commutation of Tithes in England and Wales.	In section twenty-one the words "and also the true or estimated quantity in statute measure of land, subject to tithes within the parish, which shall be then cultivated as arable, meadow, or pasture land, or as wood land, common land, or howsoever otherwise." In section twenty-two, the words "after their appointment." Sections twenty-nine to thirty-one, both inclusive. Sections thirty-seven and thirty-eight. Sections forty to forty-four, both inclusive. Section fifty-four, from "having regard" to the end of the section. In section fifty-five the words "and whether the said several lands are then cultivated as arable, meadow, or pasture land, or as wood land, common land, or howsoever otherwise." In section sixty-seven, the words "equal in value according to the prices ascertained by the then next preceding advertisement to the quantity of wheat, barley, and oats respectively," and the words from "and after every first day of January" to the end of the section. Sections sixty-eight and eighty-seven. Section ninety, from the words "or to any payment instead" to the end of that section.
7 William 4 and 1 Victoria, cap. 69.	An Act to amend an Act for the Commutation of Tithes in England and Wales.	Sections four, five, and seven.
5 & 6 Victoria, cap. 54.	An Act to amend the Acts for the Commutation of Tithes in England and Wales, and to continue the officers appointed under the said Acts for a time to be limited.	Sections four and nine. In section eighteen, the words "according to the prices of corn."

LONDON : Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1879.