CHAP. 94.

An Act to amend the New Parishes Acts and Church Building Acts. [11th August 1869.]

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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:

Powers of New Parishes Acts to apply at any time to new parishes for ecclesiastical purposes.

1. The powers and provisions relating to the alteration of the boundaries of districts which are contained in the ninth section of the "New Parishes Act, 1844," shall, notwithstanding the lapse of the periods of twelve months and five years mentioned in the same section and in the twenty-seventh section of the Act of the thirteenth and fourteenth years of Her Majesty, chapter ninety-four, respectively, or either of them, be at any time applicable to the alteration of the boundaries of any and every ecclesiastical district which may or shall have become a new parish for ecclesiastical purposes under the provisions of the "New Parishes Acts," whether such district has been or shall have been originally created under the provisions of the said Acts or any of them, or of any other Act of Parliament.

Pews or sittings may be surrendered to Ecclesiastical Commissioners.

2. Whenever by virtue of any public or private Act of Parliament now or hereafter in force, or by virtue of any deed or instrument, the pews or sittings, or some or one of the pews or sittings, in any church or chapel, consecrated or unconsecrated, are or is or shall be subject to any trust as to the grant, demise, sale, or disposal of such pews or sittings, pew or sitting, or are, is, or shall be the private property for any estate whatsoever of any person or persons, then and in every such case it shall be lawful for the trustees of such church or chapel, or other the persons exercising powers of grant, demise, sale, or disposal as aforesaid, or for all or any persons possessing on their own behalf or on the behalf of others

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any rights, qualified or unqualified, of ownership, by reason of any such grant, demise, sale, or disposal as aforesaid, or for any person or persons to whom any pews or sittings, pew or sitting, in such church or chapel, shall belong, for any estate whatsoever, under or by virtue of such Act of Parliament, deed, or instrument as aforesaid, with or without consideration, to surrender and for ever yield up, either altogether or separately, and according to the nature and extent of their several rights and interests, to the bishop of the diocese wherein such church or chapel is situate, or to the Ecclesiastical Commissioners for England, who are hereby respectively authorized to accept every such surrender, all rights of ownership, grant, demise, sale, disposal, or other right whatsoever which they the said trustees, persons or person, may have in, over, or in respect of such pews or sittings, pew or sitting.

Surrender to be by deed, executed by the parties, including bishop of diocese.

3. Every such surrender shall be made by deed executed by all the parties to the same, amongst whom shall be included the bishop of the diocese wherein the church or chapel to be affected by it is situate, and the patron or patrons of such church or chapel aforesaid; and such deed shall be registered in the registry of the said diocese.

Upon surrender all rights of ownership, &c. to cease.

4. So soon as all rights and powers over or in respect of the pews or sittings in any such church or chapel shall have been surrendered to the bishop of the diocese or to the said commissioners as aforesaid, the trusts or rights of ownership, and the obligations affecting such pews or sittings, or any of them, under such Act of Parliament, deed, or instrument as aforesaid, shall at once and ipso facto determine, and all the provisions of such Act of Parliament, deed, or instrument as to pews or sittings in such church or chapel shall thenceforth be void and of none effect.

And pews, &c. subject as pews of ancient parish churches.

5. From and after every such surrender to the said bishop or commissioners, the pews or sittings, pew or sitting, affected thereby shall, to the extent of the rights or powers expressed to be surrendered, be subject to the same laws as to all rights and property therein as the pews and sittings of ancient parish churches are now subject to: Provided that if the church or chapel be not consecrated such pews or sittings, pew or sitting, shall belong absolutely to the bishop and his successors or to the said commissioners, as the case may be, until the consecration of the said church or chapel, and from and after the consecration thereof the right of the said bishop or commissioners shall cease, and the said pews or sittings shall be subject to the same laws as to all rights and property therein as the pews and sittings of ancient parish churches.

Powers herein-before contained to apply to and authorize absolute transfer to Ecclesiastical Commissioners.

6. The powers and provisions herein-before contained as to pews and sittings subject to trusts as aforesaid in any such church or chapel as aforesaid shall, mutatis mutandis, be held to apply to and shall be held to authorize the absolute transfer and conveyance to the said commissioners, by any deed or deeds, made without consideration and executed by all the parties thereto as aforesaid, of the freehold of any church or chapel, consecrated or unconsecrated, and of the vaults therein or thereunder, which, under or by virtue of any such Act of Parliament, deed, or instrument as aforesaid, is or are or shall be vested in any persons or person in their own right or as trustees or trustee of such church or chapel for an estate in perpetuity; and if such church or chapel be unconsecrated at the time of such transfer and conveyance, such freehold so transferred and conveyed shall remain in the said commissioners until the consecration of the same church or chapel, and shall then ipso facto become subject to the same laws as to all rights and property therein as the pews and sittings of ancient parish churches.

Upon complete surrender, all rights created by Act for building church to cease.

7. In every case in which a complete surrender and determination of the rights, powers, obligations, and trusts affecting the pews or sittings in a church or chapel shall have been carried out as aforesaid, and in every case in which such transfer and conveyance as aforesaid of the freehold of a church or chapel, and the vaults (if any) thereof, shall have been effected, all other rights, powers, obligations, and trusts created, conferred, or enforced as to such church or chapel by the Act of Parliament, deed, or instrument under which such church or chapel was built, shall upon such complete surrender and determination, or (as the case may be) such transfer and conveyance, absolutely cease and determine; provided always, that such cesser and determination shall not diminish or in anywise affect any right or rights of patronage.

Provision for sites of churches pulled down.

8. In and by any faculty granted by a bishop for wholly pulling down any church, under the provisions contained in the first section of the Act eighth and ninth Victoria, chapter seventy, it shall be lawful to make such provision as such bishop may deem proper and expedient for the use or preservation of the site of such church, either by the incumbent of the substituted church, or by the churchwardens of the parish wherein such site lies, or by any other person being the owner of the freehold of the land adjoining such site with the consent of the incumbent and of such other person.

The portions of a benefice held in seve-

9. In every case where the respective incumbents of two or more benefices held in severalty (whether each of such benefices belongs

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Ralty may be consolidated into one.

to the same patron or to different patrons) have or shall have by statute or by custom the right in virtue of their respective incumbencies to execute the office of an incumbent within one and the same church, and within no other church other than a chapel of ease, then the powers and provisions given by and contained in the seventy-second section of the Act of the third and fourth years of Her Majesty, chapter one hundred and thirteen, with respect to the consolidation of two or more portions of a benefice divided as therein mentioned into one benefice to be held by one incumbent, shall, subject to the conditions therein expressed, be available for and shall apply to and may be used for effecting the consolidation of both or all of such benefices into one benefice to be held by one incumbent, and this notwithstanding that such benefice when so united may include the cure of souls within more than one parish: Provided always, that any plan or scheme for such consolidation to be framed under the provisions of the Act last mentioned may contain a regulation that such consolidation shall not take effect until after the next avoidance of any one or more of such benefices to be specially named in such plan or scheme; and provided also, that nothing herein contained shall be held to create an union of the two or more parishes so as aforesaid to be included within such united benefice, but that each of such parishes shall remain for all purposes, civil and ecclesiastical, precisely in the same position as if no such union of benefices as aforesaid had taken place.

Part of 19 & 20 Vict. c. 104. s. 18. repealed.

10. So much of the eighteenth section of the Act of the nineteenth and twentieth Victoria, chapter one hundred and four, as requires that in the case of a benefice in the patronage of the incumbent for the time being of any other benefice the consent of the patron of such other benefice, if a private patron, shall be necessary in order to effect an assignment of patronage under the last-mentioned Act, is hereby repealed, but the private patron in any such case shall have one month's notice from the Ecclesiastical Commissioners, and he may require the commissioners to assess the amount of diminution in the value of his advowson, if any, likely to be caused by any contemplated assignment of patronage under the said Act, or may require that such diminution shall be ascertained by reference to the decision of two arbitrators, one to be appointed by himself and the other by the commissioners, and if thereupon it shall appear that any such diminution will be caused by the assignment of patronage contemplated, such private patron

shall be entitled to claim and recover the amount of such diminution from the person or persons or body to whom the said assignment of patronage may be made.

As to parish where there is no church and no patron.

11. In the case of any parish or place wherein there is no parish church nor any person known to be or claiming to be patron of the ancient church or advowson, if any, of such parish or place, then for all purposes of forming an ecclesiastical district or ecclesiastical districts either wholly or partly out of such parish or place under the powers of the Church Building Acts or New Parishes Acts, or any other Act or Acts of Parliament now or hereafter in force, such parish or place shall be deemed to be and shall be treated for such purposes as an extra-parochial place, and in any case in which notice shall be required to be sent or given to a patron under the provisions of such Acts or any of them it shall be sufficient with respect to such parish or place so to be treated as an extra-parochial place as aforesaid to send or give such notice to the bishop of the diocese alone, and such notice when so sent or given shall be held to be a full compliance with the requirements of the said Acts or Act in respect of such notice: Provided always, that nothing herein contained shall affect the rights of the Crown, if any, with regard to any such parish or place.

Contract for the assignment of patronage under the Church Building and New Parishes Acts not to be simoniacal.

12. No contract, agreement, or arrangement under any of the provisions of the Church Building Acts or New Parishes Acts relative to the exercise by, or the vesting in, or the assignment to any body or person of the right of patronage of or presentation to any church or chapel, in consideration of such body or person erecting or enlarging or contributing towards or procuring or agreeing to procure the erecting or the enlarging of such church, or permanently endowing or contributing towards or procuring or agreeing to procure the permanent endowment of such church or of its incumbent or minister, shall be deemed corrupt or simoniacal.

Certain assignments of patronage under Church Building and New Parishes Acts to be valid, and none of the penalties against simony to attach.

13. Every instrument whereby any declaration or assignment or other disposition of any right of patronage or of presentation to any church or chapel has already been made, or shall hereafter be made under any of the provisions of the said Acts, or in pursuance of any such contract or agreement as aforesaid, shall be deemed to have been and shall be good; and every presentation, institution, or induction which has already taken place, or shall hereafter take place in pursuance thereof, or of any such contract, agreement, or arrangement as aforesaid, shall be deemed to have been and shall be good, and no penalty or disability under

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either the canon law or the common or statute law shall be deemed to have been or shall be thereby incurred.

Meaning of "church" and "chapel."

14. The words church and chapel in this Act shall apply only to churches and chapels of the Established Church of England.

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