## CAP. CXVI.

**An Act to continue and amend an Act to facilitate the Management and Improvement of Episcopal and Capitular Estates in *England*.**

[11th *August* 1854.]

'WHEREAS the Act of the Fourteenth and Fifteenth Years of Her present Majesty, Chapter One hundred and four, was limited to Three Years from the End of the 'then Session of Parliament, and it is expedient to continue and amend the same Act:' 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:

14 & 15 Vict. c. 104. continued.

I. The said Act, as amended by this Act, shall continue in force for Two Years from the End of the present Session of Parliament.

On Sale or Exchange of Part of Lands, &c. comprised in any Lease, Rent may be apportioned.

II. The Powers and Provisions contained in the Second Section of the said Act shall extend to all Cases in which, on the Sale, Exchange, or Enfranchisement, under the Authority of the said Act or of this Act, of a Part only of any Lands or other Hereditaments comprised in any Lease or Copy of Court Roll, the Church Estates Commissioners may deem it expedient to apportion the Rent reserved by or payable under the Lease or Grant to the Ecclesiastical Corporation by whom such Lease or Grant may have been made.

Trustees of Will or Settlement may raise Money for Enfranchisement.

III. In any Case in which the legal Estate and Interest under any Lease or Grant made by any such Ecclesiastical Corporation may be vested in any Person or Persons in trust for any other Person or Persons, according to the Limitations of any Will or Settlement, where such Will or Settlement contains a Direction or Power to such Trustees to raise Money for the Purpose of procuring a Renewal of such Lease or Grant, it shall be lawful for the same Trustees to raise Money for the Purpose of purchasing the Reversion of or otherwise enfranchising the Property comprised in such Lease or Grant, in the same Manner, and subject to the same Conditions, *mutatis mutandis*, so far as the same may be applicable to the Case, as may be specified in such Will or Settlement with reference to the raising of Money for the Purpose of renewing such Lease or Grant.

Arbitrators may be named.

IV. In every Case where a Treaty shall have been entered into, under the Provisions of this Act or of the said recited Act, for the Sale, Purchase, or Exchange of any Episcopal or Capitular Estate in *England*, or of any Interest in such Estate, it shall be lawful, by the Consent of both Parties to such Treaty, and with the Approbation of the Church Estates Commissioners, to refer to Arbitration the Finding of the annual Value of such Estate, and of the Value of the Fee Simple thereof, or either of such Values, subject to the Exceptions and Reservations, if any, to be excepted and reserved thereout, and that such Finding shall be adopted in computing the Terms of such Sale, Purchase, or Exchange, regard being had, in the final Settlement of such Terms in every such Case, to the just and reasonable Claims of the present Holders of Land under Lease or otherwise, arising from the long-continued Practice of Renewal, and that in every such Case One Arbitrator shall be appointed by the Church Estates Commissioners, and One by the Lessee or intending Purchaser, and the Two Arbitrators so appointed shall, before they proceed in the Matter referred to them, appoint an Umpire or Third Arbitrator, and the Proceedings upon such Arbitration shall be conducted in like Manner, and subject to the same Rules and Enactments, as upon a Reference made by Consent upon a Rule of Court or Judge's Order: Provided always, that it shall be lawful for the same Parties to appoint One and the same Person to act as sole Arbitrator; and in such Case the Valuations, Acts, and Award of such Arbitrator shall have the same Effect as Valuations, Acts, and Award of the Arbitrators and Umpire under the Provisions herein contained; 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.

How Copyholder's Right of Renewal to be ascertained.

V. Notwithstanding anything to the contrary contained in or to be implied from the said recited Act, or in the "Copyhold Act, 1852," or in an Act of the Sixteenth and Seventeenth Years of Her present Majesty, intituled *An Act to explain and amend the Copyhold Acts*, whenever a Right of Renewal of any Lands held for a Life or Lives or for Years

Years by Copy of Court Roll from or under any Ecclesiastical Corporation shall be disputed by such Ecclesiastical Corporation or by the Church Estates Commissioners, or whenever the Person or Persons claiming to be interested in any such Lands shall be desirous of having the Right of Renewal decided by a competent Tribunal, then and in either of the said Cases it shall be lawful for such Person or Persons to cause an Action to be brought in any of Her Majesty's Superior Courts of Law at *Westminster*, in which Action such Person or Persons shall be the Plaintiff or Plaintiffs, and the Church Estates Commmissioners, together with the Ecclesiastical Corporation from or under whom such Copyhold or Customary Lands shall be held, shall be the Defendants, and in which Action the Plaintiff or Plaintiffs shall deliver a feigned Issue whereby such disputed Right may be tried, and shall proceed to a Trial at Law of such Issue at the Sittings after the Term or at the Assizes then next or next but one after such Action shall have been commenced, to be holden for the County within which the Lands, or the greater Part thereof, are situated, with Liberty, nevertheless, for the Court in which the same shall have been commenced, or any Judge of any One of Her Majesty's Courts of Law at *Westminster*, to extend the Time for going to Trial therein, or to direct the Trial to be in another County, if it shall seem fit to such Court or Judge so to do, and the Defendants in any such Action shall enter an Appearance thereto, and accept such Issue; but in case the Parties shall differ as to the Form of such Issue, or in case the Defendants shall fail to enter such Appearance or accept such Issue, then the same shall be settled under the Direction of the Court in which the Action shall be brought, or by any Judge of One of Her Majesty's Courts of Law at *Westminster*, and the Plaintiff or Plaintiffs may proceed thereon in like Manner as if the Defendants had appeared and accepted such Issue; and the Parties in such Action shall produce to each other, their respective Attornies or Counsel, at such Time as any Judge may order, before Trial, and also to the Court and Jury, upon the Trial of any such Issue, all Books, Deeds, Court Rolls, Papers, and Writings, Terriers, Maps, Plans, and Surveys, relating to the Matters in issue, in their respective Custody or Power; and it shall be lawful for the Judge by whom any such Action shall be tried, if he shall think fit, to direct the Jury to find a Verdict, subject to the Opinion of the Court upon a Special Case; and the Verdict which shall be given in any such Action, or the Judgment of the Court upon the Case subject to which the same may be given, shall be final and binding upon all Parties thereto, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had therein, which it shall be lawful for the said Court to do if it shall see fit: Provided always, that after such Verdict given, and not set aside by the Court, or after such Decision of the Court, the said Ecclesiastical Corporation and the Church Estates Commissioners shall be bound by such Verdict or Decision; and the Costs of every Action, and of obtaining a Decision thereon, shall be in the Discretion of the Court in or by which the same shall be decided, which may order the same to be taxed by the proper Officer of the Court, and the like Execution may be had for the same as if such Costs had been recovered upon a Judgment of Record of the said Court: Provided also, that in every Case in which the Costs or any Part of the Costs of or incident to any Action to be brought under the Provisions of this Act shall become payable by the Defendant in such Action, it shall be lawful for the Church Estates Commissioners, and they are hereby required, to pay such Costs out of any surplus Monies coming or which have come or may come to their Hands in respect of the Estates of such Corporation, under the Provisions of the said recited Act or this Act.

**Provision relating to Apportionment of Proceeds of Sales.**

VI. The Provisions contained in the Sixth Section of the said Act, relative to the Investment and Application of the Monies which are to be paid into the Bank of *England* as thereby directed, shall be subject to the following Provisions; that is to say, the Provisions contained in the Eighth Section of the said Act which direct the Church Estates Commissioners to require certain Payments to be made to them by or on behalf of Persons being Ecclesiastical Corporations Sole or Members of the Ecclesiastical Corporation Aggregate shall be extended so as to authorize and require the same Commissioners to apportion every Sum of Money paid or to be paid into the Bank of *England* under the Provisions of the said Act or of this Act, so as to set apart for the permanent Endowment of such Corporation Sole or Aggregate a Share of such Sum of Money sufficient to secure to

such Corporation a permanent net Income equal to that which, if the said Act or this Act had not been passed, would have been received by such Corporation from the Property by the Enfranchisement whereof such Money was produced; and the Church Estates Commissioners shall pay over the Remainder of such Sum of Money to the Common Fund of the Ecclesiastical Commissioners for *England*.

Like Provision in respect of Purchases and Exchanges.

VII. The foregoing Provisions relative to the Apportionment of Monies between the Church Estates Commissioners and Ecclesiastical Corporations, and to the Application thereof, shall be construed to relate to all Lands and other Hereditaments, and to every Estate or Interest therein, which may have been or which may be acquired by any Ecclesiastical Corporation by Purchase or Exchange under the Provisions of the said recited Act, so as to authorize the last-mentioned Commissioners to require the Payment to them by the Ecclesiastical Corporation primarily interested in such Lands or Hereditaments of a Sum of Money equivalent to the surplus Share thereof.

Provisions respecting local Claim on Tithes.

VIII. The Proviso contained in the First Section of the said recited Act, with reference to the Sale or Exchange of Tithes or Tithe Rentcharges, or Land or Hereditaments allotted or assigned in lieu of Tithes, shall be and the same is hereby repealed; and all the Monies so paid or to be paid over to the Ecclesiastical Commissioners for *England* under the foregoing Provision, which may have been produced by the Sale, Purchase, or Exchange of Tithes or Tithe Rentcharges, or Land or Hereditaments assigned or allotted in lieu of Tithes, which formed Part of the Endowment of any Ecclesiastical Corporation prior to the passing of the said Act, shall be subject to the Provisions relating to local Claims which are contained in the Sixty-seventh Section of the Act passed in the Third and Fourth Years of Her Majesty's Reign, Chapter One hundred and thirteen; and in every Case in which any Money shall as aforesaid be paid over to the Ecclesiastical Commissioners for *England* in respect of Surplus, the last-mentioned Commissioners shall, in the Annual Report to be next thereafter made by them to the Secretary of State, specify the Period at which, at the Time of the Settlement of the Terms of the Sale, Purchase, or Exchange in respect of which such Payment was made, it was estimated that any and every then subsisting Lease or Grant of the Tithes or Land thereby dealt with would have expired.

Reference to Arbitration to determine Value of Lands vested or to be vested in Ecclesiastical Commissioners.

IX. In all Dealings between the Ecclesiastical Commissioners for *England* as to Lands now vested or which shall hereafter become vested in them and the Holders of such Lands, it shall be lawful for the Parties to refer to Arbitration the Finding of the annual Value and of the Value of the Fee Simple thereof, subject to the Exceptions and Reservations, if any, to be excepted and reserved thereout, and such Finding shall be adopted in computing the Terms of the Sale, Purchase, or Exchange of such Lands or of any Interest therein, regard being had in the final Settlement of such Terms in every such Case to the just and reasonable Claims of such Holders of Land under Lease or otherwise arising from the long-continued Practice of Renewal, and the said last-mentioned Parties shall for the Purpose of such Arbitration be subject to the Provisions herein-before contained as to the Appointment of Arbitrators and the Payment of Costs.

Ecclesiastical Commissioners to state like Particulars as Church Estates Commissioners.

X. The Ecclesiastical Commissioners for *England* shall with reference to their Dealings with Lands vested in them state in their Reports the like Particulars which the Church Estates Commissioners are by the said recited Act required to state in their Reports with reference to Lands dealt with by them under the same Act.

Basis of Report of 1850 may be taken.

XI. In computing the due Regard to be paid to the just and reasonable Claims of the present Holders of Lands under Lease or otherwise arising from the long-continued Practice of Renewal, the Basis of Compensation may, at the Discretion and with the Approval of the Church Estates Commissioners, be that laid down by the Episcopal and Capitular Revenues Commissioners in their Report of One thousand eight hundred and fifty, or according to the Recommendations laid down in the Lords Report on the same Subject in One thousand eight hundred and fifty-one.

How Computations on the Duration of

XII. In all Computations in any way dependent on the Duration of Lives, the Expectation of Life shall not be calculated according to the Tables commonly known as the *Northampton* Tables

Lives are to be calculated. Tables nor upon Tables less favourable to the Expectation of Life than the Life Tables which are appended to the Twelfth Annual Report of the Registrar General of Births, Deaths, and Marriages in *England*, nor than any Tables which may be from Time to Time issued be the same Authority.

Interpretation. XIII. The Provisions contained in the Eleventh Section of the said Act with reference to the Interpretation of the Words and Expressions therein specified shall apply to the same Words and Expressions whenever they occur in this Act, and the said Act and this Act shall be read and construed together as One Act.

## CAP. CXVII.

An Act to facilitate the Sale and Transfer of Incumbered Estates in the *West Indies*. [11th *August* 1854.]

'WHEREAS it is expedient that Facilities should be given for the Sale and Transfer of 'Incumbered Estates in the several *West Indian* Colonies mentioned in the Schedule 'hereto:' Be it enacted, therefore, 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:

*Preliminary.*

*Preliminary.*

Short Title of Act. I. This Act may for all Purposes be cited as "The *West Indian* Incumbered Estates Act, 1854."

Act how to come into operation. II. This Act shall not take effect until Her Majesty has, by Order in Council to be made as herein-after mentioned, directed the same to come into operation in One or more of the said scheduled Colonies.

Interpretation of certain Terms in this Act. III. In the Construction and for the Purposes of this Act the following Terms shall have the respective Meanings herein-after assigned to them; that is to say,

"Land" shall extend to Sugar and other Plantations, Messuages, Tenements, and Hereditaments, corporeal and incorporeal, of every Tenure or Description, and shall include and denote that Estate or Interest in any Hereditaments which any Person applying for a Sale is possessed of, is entitled to, or has any Mortgage, Charge, or Incumbrance upon:

"Incumbrance" shall mean any Debt, Portion, Legacy, or other Sum of Money constituting a Charge or Lien on Land, or raiseable out of Land:

"Incumbrancer" shall mean any Person entitled to such Incumbrance, or entitled to require the Payment or Discharge thereof:

"Possession" shall include the Receipt of the Rents and Profits:

"Owner" shall mean any Person entitled in possession to Land, or the Receipt of the Rents and Profits thereof, or who would be so entitled if there were no Incumbrances on such Land, for a Term of not less than Thirty Years unexpired, or for an Estate or Interest for his own Life, or for an Estate or Interest determinable on the dropping of any other Life or Lives, or for any greater Estate or Interest:

"Person and Owner" shall extend to a Body Politic or Corporate as well as to an Individual:

"Commissioners" shall mean the Persons appointed Commissioners for the Sale of Incumbered Estates in the *West Indies*, as herein-after mentioned.

*Constitution and Powers of Commissioners.*

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Three Commissioners to be appointed under Sign Manual. IV. It shall be lawful for the Commissioners of Her Majesty's Treasury for the Time being to appoint any Number of Persons, not exceeding Three, to be Commissioners under this Act during Her Majesty's Pleasure, and upon every Vacancy in the Office of any such Commissioner in like Manner to appoint some other Person to such Office; and the said Persons