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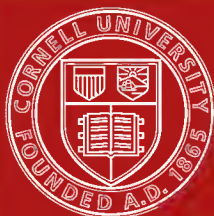
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THE
IRISH CHURCH ACTS, 1869 & 1872,

AND
VARIOUS STATUTES CONNECTED THEREWITH,

INCLUDING

"THE IRISH PRESBYTERIAN CHURCH ACT, 1871,"
"THE GLEBE LOAN (IRELAND) ACTS, 1870 TO 1875,"
"THE GLEBE LANDS (IRELAND) ACTS, 1855 TO 1875,"
"THE PAROCHIAL RECORDS (IRELAND) ACT, 1875,"
&c., &c.,

TOGETHER WITH

REPORTS OF LEADING CASES

DECIDED UNDER THE IRISH CHURCH ACTS,

AND THE

GENERAL RULES AND FORMS OF PROCEDURE

OF

THE COMMISSIONERS OF CHURCH TEMPORALITIES IN IRELAND,
&c.

WITH AN INDEX.

BY

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PREFACE.

THE object of this volume is to supply a hand-book containing the principal statutes now in use relating to Ecclesiastical Property in Ireland, and at the same time provide an accurate report, brought down to the present time, of the "leading cases decided under The Irish Church Acts," frequent inquiries having been made for the third edition of "Decisions under The Irish Church Act, 1869," published three years ago, and for some time out of print.

The work is divided into four parts :—Part I. contains a reprint of The Irish Church Acts, together with some notes illustrating the working of those important statutes. Part II. contains a reprint of the principal statutes incorporated or connected with "The Irish Church Acts," including "The Leasing Powers Acts for Religious Worship in Ireland of 1855 and 1875," "The Glebe Loan (Ireland) Acts, 1870 to 1875," and "The Glebe Lands, Representative Church Body (Ireland), Act, 1875," which enables The Representative Church Body to recover compensation for malicious injury to Churches. Part III. contains a report of the "leading cases decided under The Irish Church Acts,"

divided into appropriate classes. Part IV. contains the General Rules, Orders, and Forms of Procedure under The Irish Church Acts, including Forms of Conveyance, &c., and the Charter of Incorporation of The Representative Church Body.

WILLIAM LEIGH BERNARD.

24, UPPER MERRION-STREET, DUBLIN,

Hilary Vacation, 1876.

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I.—"THE IRISH CHURCH ACT, 1869."

32 & 33 VICTORIA, CAP. 42.

An Act to put an end to the Establishment of the Church of Ireland, and to make provision in respect of the Temporalities thereof, and in respect of the Royal College of Maynooth.

[26th July, 1869.]

WHEREAS it is expedient that the union created by Act of Parliament between the Churches of England and Ireland, as by law established, should be dissolved, and that the Church of Ireland, as so separated, should cease to be established by law, and that after satisfying, so far as possible, upon principles of equality as between the several religious denominations in Ireland, all just and equitable claims, the property of the said Church of Ireland, or the proceeds thereof, should be applied in such manner as Parliament shall hereafter direct :

And whereas Her Majesty has been graciously pleased to signify that she has placed at the disposal of Parliament her interest in the several archbishoprics, bishoprics, benefices, cathedral preferments, and other ecclesiastical dignities and offices in Ireland :

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 :

1. This Act may be cited for all purposes as "The Irish Church Short title.
Act, 1869."

2. On and after the first day of January one thousand eight hundred and seventy-one the said union created by Act of Parliament between the Churches of England and Ireland shall be dissolved, and the said Church of Ireland, hereinafter referred to as "the said Church," shall cease to be established by law. Dissolution of legislative union between Churches of England and Ireland.

The name adopted by the Disestablished Church from the outset was that of "The Church of Ireland," on the general ground that the Church was only abolished by the Act as a state establishment, and retained its existence as a church. The legality of the Dis-

Section 3.
established
Church.

this title having been questioned the following report of the Legal Committee of the Representative Church Body, was adopted at a meeting held by that body on the 24th of January, 1871.

"The Church of Ireland is entitled to, and is bound to use, the name of THE CHURCH OF IRELAND, and is not entitled to assume or to use, and ought not to accept the name of *The Protestant Episcopal Church of Ireland* or any other name than THE CHURCH OF IRELAND."

"The Church of Ireland, which the Registrar-General of Marriages has designated as *The Protestant Episcopal Church of Ireland*, has been, ever since the Reformation, the only CHURCH OF IRELAND, as well in fact as in law."

"The Roman Catholic Church has never been the 'Church of Ireland.' It has been the 'Church of Rome,'—and has assumed to be *The Catholic Church*. All other bodies of professing Christians in Ireland have been congregational churches or institutions in Ireland, and have neither been, nor have claimed to be, 'Churches of Ireland.'"

"The name CHURCH OF IRELAND is the name uniformly given by the Irish and Imperial Legislatures to the Church of Ireland; see 28 Henry VIII. c. 5, 17 & 18 Car. II. c. 6, 6 Geo. I. c. 3, 14 & 15 Vict. c. 72, the Act of Union, and the 'Irish Church Act, 1869,' ss. 1, 2, and 69, etc., etc."

"Neither the Legislature nor any other lawful authority has given to, or assumed to impose on, The Church of Ireland any new name. On the contrary, the name THE CHURCH OF IRELAND, both by recital, and by the repeated use of the words 'the said Church,' is incorporated into the new Marriage Act, 33 & 34 Vict. c. 110. The words '*Protestant Episcopalian*' which occur in this Act, are not used for the nomenclature of members of the Church of Ireland, but as a comprehensive term, proper to include members of all other Protestant Episcopal Churches, as well as THE CHURCH OF IRELAND, which is one of numerous Protestant Episcopal Churches. On the other hand, in this Act, the various religious bodies of non-conformists connected with Ireland are mentioned under the various names adopted by themselves."

"THE CHURCH OF IRELAND and the Roman Catholic Church are the only ecclesiastical institutions in Ireland, which comprehend Ireland; these do include within their functions all Ireland divided into Parishes. The Roman Catholic Church claims for itself *hic et ubique* the name of *The Catholic Church*, and disdains limits of country and place; and indeed could not without inconsistency assume the name of THE CHURCH OF IRELAND."

CONSTITUTION AND POWERS OF COMMISSIONERS.

Appointment
of Commis-
sioners.

3. The following persons, that is to say, Viscount Monck, Right Honourable James Anthony Lawson, one of the justices of the Court of Common Pleas in Ireland, and George Alexander Hamilton, Esquire, shall be constituted Commissioners(a) under this Act: they shall hold office during Her Majesty's pleasure, and if any vacancy occurs in the office of any commissioner by death, resignation, or incapacity, or otherwise, Her Majesty may, by warrant under the royal sign manual, appoint some other fit person, being a member of either of the said Churches or of the said United Church, to fill the vacancy. The Commissioners appointed under this Act shall be a body corporate with a common seal, and a capacity to acquire and hold land for the purposes of this Act, and shall be styled "The Commissioners of Church Temporalities in Ireland."

Judicial notice shall be taken by all courts of justice of the corporate seal of the Commissioners, and any order or other instrument purporting to be sealed therewith shall be received as evidence without further proof.

Reduction of
number of
Commission-
ers by Act 35
and 36 Vic.,
c. 13.
Quorum of
Commis-
sioners.

(a) The number of Commissioners was reduced to two by the Act 35 & 36 Vic. c. 13, (see *post*, page 41), in consequence of the death of the Right Honourable George Alexander Hamilton, on 17th day of September, 1871."

4. Any power or act by this Act vested in or authorized to be done by the Commissioners may be exercised or done by any one

of them, (b) with this qualification, that any person aggrieved (c) *Section 5.*
by any order of one Commissioner may require his case to be
heard by the three Commissioners. (d)

(b) Cases were usually decided in Chamber by one Commissioner, whose order was not made absolute unless, within one calendar month, the claimant did not show cause against the same either before the Commissioner who made the order or before the full Court. *Procedure of Commissioners in investigating claims.*

(c) An appeal to arbitration is given by 28th and 42nd sections, under the special heads therein mentioned. *Appeals to arbitration.*

(d) *Vide* section 2 of the Act 35 & 36 Victoria, c. 13 (*post*, page 42), which repeals a portion of this section, and constitutes a new tribunal for hearing appeals. *Reconstitution of appellate tribunal.*

5. The said Commissioners, hereinafter referred to as "the Commissioners," may from time to time, with the consent of the Lord Lieutenant, appoint and remove a secretary, and may appoint and remove such officers, agents, clerks, and messengers as they deem necessary for the purposes of this Act. *Appointment of officers.*

They may also employ such architects, actuaries, surveyors, and other persons as they may think fit for the purpose of enabling them to carry into effect any of the provisions of this Act.

6. The following sums shall be paid by the Commissioners out of any monies for the time being in their hands in pursuance of this Act: *Salaries and expenses.*

(1.) To every Commissioner appointed in pursuance of this Act a salary of not exceeding two thousand pounds a year:

(2.) To the secretary, officers, agents, clerks, and messengers appointed, such salaries as the Commissioners may recommend, with the sanction of the Lord Lieutenant, and as the Commissioners of Her Majesty's Treasury may approve:

(3.) To any architect, actuary, surveyor, or other person as aforesaid employed by the Commissioners, such remuneration, on a scale to be approved by the Commissioners of the Treasury, as the Commissioners may think expedient:

(4.) All incidental expenses of carrying this Act into execution, which shall be taken to include the reimbursement to every claimant of all reasonable costs and expenses properly incurred by him in establishing any claim under this Act.

Costs have been allowed in the case of all claimants who established their claims on appeal, and also in the case of unsuccessful claimants who appealed on important points of general application. *Costs of Claimants.*

Bills of Costs have been taxed by the Registrar of the Commissioners on the Chancery scale.

Travelling expenses of claimants who appeared in person (excluding hotel bills), and established their claims, were allowed in several cases.

7. Subject to such appeal as is hereinafter mentioned, the Commissioners shall have full power to decide all questions whatsoever, whether of law or fact, which it may be necessary to decide for the purposes of this Act, and they shall not be subject to be restrained in the due execution of their powers under this Act by the order of any court, nor shall any proceedings before them be removed by *certiorari* into any court. *Powers of Commissioners.*

Section 8. The Commissioners with respect to the following matters, that is to say,

- (1.) Enforcing the attendance of witnesses, after a tender of their expenses, the examination of witnesses orally or by affidavit, and the production of deeds, books, papers, and documents ;
- (2.) Issuing any commission for the examination of witnesses ;
- (3.) Punishing persons refusing to give evidence or to produce documents, or guilty of contempt in the presence of the Commissioners or any of them sitting in open court ;
- (4.) Making or enforcing any order whatever made by them for the purpose of carrying into effect the objects of this Act,

shall have all such powers, rights, and privileges as are vested in the High Court of Chancery in Ireland for such or the like purposes, and all proceedings before the Commissioners shall in law be deemed to be judicial proceedings before a court of record.

The Commissioners may review and rescind or vary any order or decision previously made by them or any of them ; but save as aforesaid, and as hereinafter provided, every order or decision of the said Commissioners shall be final.

Forms of
application
and general
rules.

8. The Commissioners shall circulate forms of application and directions as to the mode in which applications are to be made to them under this Act.

They shall also from time to time make, and when made may rescind, amend, or add to, such general rules as they may think best adapted for regulating the course of procedure under this Act, and generally for securing the due execution of the powers vested in them by this Act, and giving effect to the provisions : Provided that every such general rule shall be laid before Her Majesty's Privy Council of Ireland, and it shall be lawful for such Privy Council, by order signed by six of the said Privy Council, to confirm or disallow any such rule, or to alter or amend, and confirm with alteration or amendment, any such rule, or to remit any such rule to the Commissioners for further consideration ; and every such general rule (when the same shall have been confirmed by order of the said Privy Council) shall be enrolled in the High Court of Chancery in Ireland, and when so enrolled shall be binding on the Commissioners in the exercise of their powers, and shall be of the same force and effect as if the same had been enacted by authority of Parliament ; provided always, that any rules so confirmed and enrolled as aforesaid may from time to time be rescinded, amended, or altered, as occasion may require, by other rules made by the Commissioners, and confirmed and enrolled in like manner.

All general rules made (e) and enrolled as aforesaid shall be laid before both Houses of Parliament within one month from the enrolment thereof, if Parliament be then sitting, or, if Parliament

(e) See General Rules made pursuant to this section (*post*, page 159).

be not then sitting, within one month from the commencement of the then next session of Parliament. Section 9.

9. No Commissioner and no person appointed to any office by the Commissioners shall hold his office for a longer period than ten years next after the passing of this Act, and thenceforth until the end of the next session of Parliament, and no Commissioner appointed under this Act shall during his continuance in office be capable of being elected to or sitting as a member of the House of Commons. Duration of office, and restriction on sitting in Parliament.

TRANSFER OF PROPERTY AND DISSOLUTION OF ECCLESIASTICAL CORPORATIONS.

10. Save as hereinafter mentioned (*f*), no person shall, after the passing of this Act, be appointed by Her Majesty or any other person or corporation by virtue of any right of patronage or power of appointment now existing to any archbishopric, bishopric, benefice, or cathedral preferment in or connected with the said Church. Prohibition of future appointments.

(*f*) See section 66 (*post*, page 37).

11. From and after the passing of this Act all property (*g*), real and personal, at the date of such passing vested in or belonging to the Ecclesiastical Commissioners for Ireland, is transferred to and vested in the Commissioners appointed under this Act, subject to all tenancies, charges, incumbrances, rights (including tenants' rights of renewal), or liabilities affecting the same, and the corporation of the Ecclesiastical Commissioners for Ireland (*h*) is hereby dissolved. Property of Ecclesiastical Commissioners vested in Commissioners under this Act.

(*g*) For decision as to meaning of "property," see case of "The Primate" (*post*, page 84).

(*h*) The Ecclesiastical Commissioners were constituted by the Act 3 & 4 Wm. IV., cap. 37, which was amended by 4 & 5 Wm. IV., c. 90, 6 & 7 Wm. IV., c. 99, and 23 & 24 Vic., c. 150.

12. On the first of January one thousand eight hundred and seventy-one, save as hereinafter provided, all property, real and personal, belonging or in anywise appertaining to or appropriated to the use of any archbishopric, bishopric, benefice, or cathedral preferment in or connected with the said Church, or belonging or in anywise appertaining to or appropriated to the use of any person as holding any such archbishopric, bishopric, benefice, or cathedral preferment, or belonging or in anywise appertaining to or appropriated to the use of any cathedral corporation in Ireland, as defined by this Act, shall vest in the Commissioners, subject as hereinafter mentioned; that is to say, Church property vested in Commissioners under this Act.

- (1.) In case of all such property, subject to any quitrents, head-rents, leases, and other tenancies, charges, and incumbrances affecting the same:
- (2.) In the case of any houses, buildings, farms, lands, churches, burial grounds, or other corporeal hereditaments to which, or to the rent and profits of which, any archbishop, bishop, or person holding any such benefice or cathedral preferment as aforesaid may be entitled, subject to the life

Section 13.

interests of such archbishop, bishop, or person respectively; and such last-mentioned corporeal hereditaments shall, subject to the provision for commutation herein-after contained, continue in such archbishop, bishop, or person respectively for their respective lives with the same powers, rights, and authorities and in the same manner as if this Act had not passed:

- (3.) On the death or cessor of the interest of any archbishop or bishop aforesaid the tenants (i) then holding directly under any such archbishop or bishop where leases had been theretofore customarily renewable shall have similar rights of renewal of their said leases, and the said Commissioners shall be under similar obligations and have similar powers and rights in relation to such renewals, and the rents and fines thereupon, as the tenants of sees suppressed under statute third and fourth William the Fourth, chapter thirty-seven, and as the Ecclesiastical Commissioners in regard thereto had and were under respectively immediately before the passing of statute twenty-third and twenty-fourth Victoria, chapter one hundred and fifty: every application for any such renewal shall be made within one year from the death or cessor of the interest of such archbishop or bishop, and thereupon the Commissioners shall once and for ever fix for the future the rent and periods of renewal and the fine to be paid thereupon, and in case of any difference in relation to such rent or fine the same shall be referred to arbitration as herein.

Under this section the Commissioners only became entitled on the 1st of January, 1871, to the property of all vacant livings, the tithe-rentcharge held by surviving holders of benefices, and the entire property of cathedral corporations, subject to the provisions of the 14th section (*post*, page 7).

The lands and all corporeal hereditaments otherwise held were preserved to the holders for their lives, subject to the provision for commutation in 23rd section (*post*, page 13).

(i) See 31st section (*post*, page 22); and decision in case of *John Leslie, Esq.*, reported (*post*, page 92).

Dissolution
of ecclesiastical
corporations,
and cessation
of right of
bishops to
sit in House
of Lords.

13. On the said first of January, one thousand eight hundred and seventy-one every ecclesiastical corporation in Ireland, whether sole or aggregate, and every cathedral corporation in Ireland, as defined by this Act, shall be dissolved, and on and after that day no archbishop or bishop of the said Church shall be summoned to or be qualified to sit in the House of Lords as such; provided that every present archbishop, bishop, dean, and archdeacon of the said Church shall during his life enjoy the same title and precedence as if this Act had not passed.

It will be observed on reference to 30th section (*post*, page 20), that where ecclesiastical persons were in right of their dignities or offices entitled before the passing of this Act to be members of any lay corporation constituted for the management of any private endowment, &c., they and their successors shall continue to perform such functions.

Section 14.

COMPENSATION TO PERSONS DEPRIVED OF INCOME.

Compensation to ecclesiastical persons other than curates.

14. The Commissioners shall, as soon as may be after the passing of this Act, ascertain and declare by order the amount of yearly income of which the holder of any archbishopric, bishopric, benefice, or cathedral preferment in or connected with the said Church will be deprived (j) by virtue of this Act, after deducting all rates and taxes, salaries of curates found by the Commissioners on inquiry as authorized by the fifteenth section of this Act to be permanent curates, payments to diocesan schoolmasters, and other outgoings to which such holder is liable by law, but not deducting income or property tax, and the Commissioners shall have regard to the prospective increase (if any) of such income by the falling in or cessation of charges thereon: and the Commissioners shall, as from the first day of January one thousand eight hundred and seventy-one, pay each year to every such holder as long as he lives and continues to discharge such duties in respect of his said archbishopric, bishopric, benefice, or preferment as he was accustomed to discharge, or would, if this Act had not passed, have been liable to discharge, or any other spiritual duties in Ireland which may be substituted for them, with his own consent, and with the consent of the representative body of the said Church hereinafter mentioned, or, if not discharging such duties, shall be disabled from so doing by age, sickness, or permanent infirmity, or by any cause other than his own wilful default, an annuity equal to the amount of yearly income so ascertained as aforesaid: Provided that no deduction shall, in the case of any incumbency, be made in respect of a curate's salary under this section unless a deduction for curate's salary has been made in the case of the same incumbency by the Ecclesiastical Commissioners for Ireland during five years next preceding the first day of January, one thousand eight hundred and sixty-nine; and provided always, that where deduction has been made under this section in respect of the salary of a curate, and the salary of such curate ceases otherwise than by commutation under this Act in the lifetime of the person in ascertaining whose yearly income such salary has been deducted as aforesaid, the Commissioners shall thenceforth pay to such person, so long as he lives and continues to discharge the duties of his office, a further

(j) The fact that claimants under this section were only awarded annuities in respect of income of which they were *deprived* by the Act, while under the next section claimants were awarded annuities *equal to the amount of their yearly incomes*, whether deprived or not of the same, has frequently been the subject of discussion.

[For interpretation of the terms "Benefice" and "Cathedral preferment," see Glossary, s. 72.]

Prospective Increase of Income. See *In re* Rev. G. B. Sayers as to "Corn averages question" (*post*, page 104).

The leading case, *In re* Rev. W. S. King (*post*, page 98), and the cases following it, show the rulings of the Commissioners on all points of interest raised under this section.

Surplice fees. See *In re* Archdeacon of Dublin and Others (*post*, page 105).

Discharge of duty. See case of *In re* Rev. R. H. Graves (*post*, page 151), and General Rules (*post*, page 165).

Section 15. annuity equal to the amount of such curate's salary, subject to the provisions for commutation hereinafter contained.

Compensation to permanent curates.

15. The Commissioners shall inquire whether any curate, serving as such at any time between the first day of January, one thousand eight hundred and sixty-nine and first day of January, one thousand eight hundred and seventy-one, is to be deemed a permanent curate, and shall determine the same (*k*), having regard to the length or term of his service, the duties to be discharged in the benefice, the non-residence, infirmity, or other incapacity of the incumbent, or his habit of employing a curate. The Commissioners shall ascertain and declare by order the amount of yearly income received by any such permanent curate, and shall pay to every such curate so long as he lives and continues to discharge the duties (*l*) of his said curacy, or any other spiritual duties in Ireland, which with his own consent and with the consent of the Church body hereinafter mentioned may be substituted for them, or if not discharging such duties shall be disabled from so doing by age, sickness, or permanent infirmity, or any cause other than his own wilful default, an annuity commencing on the first day of January, one thousand eight hundred and seventy-one equal to the amount of such yearly income (*m*), or shall on the application of such curate, made at any time between the first day of January, one thousand eight hundred and seventy-one and the first day of January one thousand eight hundred and seventy-two, and with the consent of the Church body hereinafter mentioned, cause the present value of such life annuity to be estimated, and pay the same to such curate or to such curate and Church body in such proportions as they shall agree: Provided that where the salary of a curate has been deducted under section fourteen from the income of any incumbent, such curate shall be deemed to be a permanent curate within the meaning of this section; and no commutation (*n*) of his salary, and no change in his duties for the purposes of this Act, shall be made without the consent of the incumbent from whose income the salary of such curate has been deducted.

Commutation of curates.

(*k*) See leading cases as to "*Permanent Curates*," *post*, page 111. The total number of curates declared *permanent* was 921 (whose annuities amounted to £98,301 14s. 7d. in the aggregate), and of these 901 commuted their annuities, pursuant to 23rd section. The claims of 310 curates (claiming annuities of £34,100 in the aggregate) were disallowed by the Commissioners.

(*l*) See decision of Privy Council, *post*, page 148, and General Rules, *post*, page 165.

(*m*) See note to preceding section.

(*n*) All commutations of curates were carried out under 23rd section.

Gratuities to non-permanent curates.

The Commissioners may make to any curate who is not entitled to compensation as a permanent curate (*o*), and who is serving as a curate on any day between the said first day of January one thousand eight hundred and sixty-nine and the said first day of January one thousand eight hundred and seventy-one, both inclusive, such gratuity for the loss of his curacy as they may think just, so that the amount thereof do not exceed twenty-five pounds

(*o*) See leading cases as to compensation to "*temporary curates*" (*post*, page 120). The total amount paid as *gratuities* to curates was £25,400.

for every year during which he shall have served as a curate : *Section 16.*
 Provided always, that in any case in which the period of service
 of any curate shall not amount to eight years, the Commissioners
 may make up such gratuity to the sum of two hundred pounds :
 Provided also, that such gratuity shall in no case exceed the sum
 of six hundred pounds.

When any annual sum granted by Parliament to the holder of
 any benefice in or connected with the said Church is discontinued,
 the Commissioners shall ascertain and declare by order the amount
 of yearly income of which such holder is thereby deprived, after
 making such deductions as aforesaid, and the Commissioners shall,
 as from the day of the discontinuance thereof, pay each year to
 every such holder so long as he lives and continues to discharge
 such duties as aforesaid an annuity equal to the amount of yearly
 income so ascertained as aforesaid. *(p)*

Compensation for sums granted by Parliament.

(p) No compensation has yet been paid under this head. The only persons who appear to have been affected by this enactment were the Dean of the Chapel Royal, Dublin Castle, and the Incumbent of the Royal Chapel of St. Matthew's, Ringsend, which was used principally by the garrison of the Pigeon House Fort.

Parliament still continues to grant the salary of the Dean of the Chapel Royal, and the Incumbent of Irishtown died before the Act came into operation.

16. The Commissioners shall, as soon as may be after the passing
 of this Act, ascertain and declare by order the following particu-
 lars :

Compensation to diocesan and district schoolmasters, clerks, sextons, &c.

- (1.) The amount of yearly salary which each schoolmaster of any diocesan or district school in Ireland is entitled to receive under any warrant of the Lord Lieutenant in Council made under the provisions of the Act of the session of the fifty-third year of the reign of His late Majesty King George the Third, chapter one hundred and seven, or any statutory amendment thereof : *(q)*

(q) Under 3rd section of 35 & 36 Vic., c. 90 (see *post*, page 42), the annuities so ascertained were allowed to be commuted on or before 1st January, 1874.

The total sum paid in respect of commutation of diocesan schoolmasters was £15,714 19s. 6d.

Commutation of Diocesan schoolmasters.

- (2.) The amount of yearly salary which each clerk, sexton, or other holder of a freehold office*, of a similar character, or of any office^(r) held during good behaviour which the Commissioners may think equal to a freehold office, connected with any cathedral, parish, chapelry, and chapel of ease in Ireland, is entitled to receive, and of the emoluments^(s) of which he will be deprived by this Act :

and the Commissioners shall every year, after the first of January one thousand eight hundred and seventy-one pay to each such diocesan schoolmaster, clerk, sexton, and officer respectively, *(t)* so long as he lives and continues to perform the duties of his office personally or by sufficient deputy in the same school, cathedral, church, or chapel, or, in the case of a clerk, sexton, or officer of the

* Clerks and sextons held freehold offices, pursuant to 63rd section of 3 & 4 Wm. IV., cap. 37, from which they could not be removed, except for "misconduct," with the consent of the bishop.

Section 17. said church, any duties of the same kind which shall be assigned to him by the representative body of the Church hereinafter mentioned, and which he will agree to perform, an annuity equal to the amount of his yearly salary and emoluments so ascertained as aforesaid, or shall, on the application of such annuitant, being a clerk, sexton, or officer of the said church, made at any time between the first day of January one thousand eight hundred and seventy-one and the first day of January one thousand eight hundred and seventy-two, and with the consent of the Church body hereinafter mentioned, cause the present value of such life annuity to be estimated, and pay the same to such annuitant, or to such annuitant and Church body, in such proportions(*u*) as they shall agree: Provided that no commutation shall be made of the salary of an annuitant, being a sexton, clerk, or other officer as aforesaid, without the consent of the ecclesiastical person under whom such sexton, clerk, or officer may be serving at the time of the application being made for commutation.

Commu-
tation of
annuities.

Claims of
Organists.

Emoluments
of Church
Officers.

(*r*) The Commissioners decided that all organists who were appointed before the passing of the Act, and who were paid salaries, either out of the funds of the Ecclesiastical Commissioners, or out of the funds of Cathedral Corporations (vested in the Commissioners), held offices equivalent to freehold offices, and were entitled to annuities equal to the amount of their salaries.

(*s*) The Commissioners decided that "Emoluments" could only be allowed in those cases where claimants had been *legally* deprived of the same by the Act.

And with respect to a number of claims, they also decided that they had no power to allow, under the head of "Emoluments," income derived from any of the following sources, viz. :—

1. Augmentations of salary derived from private sources.
2. Grants made by the Ecclesiastical Commissioners for Ireland for requisites for Divine Service.
3. Value of residence, grass of churchyard, &c., enjoyed during pleasure of Incumbent.
4. Complimentary fees, or any other source of income of a like nature.

(*t*) See General Rules as to payment of annuities, *post*, page 165.

(*u*) See Composition Tables prepared by the Representative Church Body, *post*, page 177.

Up to 31st December, 1875, the Commissioners paid the sum of £371,399 6s. 7d. for commutation of annuities of clerks, sextons, &c.

Diocesan
architects.

Diocesan architects were declared *not* entitled to compensation under this section. See *In re J. R. Carroll, Esq.*, *post*, page 144.

Compensa-
tion to
persons not
included in
preceding
section.

17. The Commissioners shall pay to any person(*v*) holding an appointment in or connected with any church or chapel in the said Church, and not entitled to compensation under the preceding section, and who has held such office for two years before the first day of January one thousand eight hundred and seventy-one, and is holding the same on the said day, such sum by way of gratuity, not exceeding one year's salary, as they think fit; and where the said Commissioners shall find that any such person is or may be deprived of any income derived from any property or fund vested in the said Commissioners under this Act, they may pay to any such person(*w*) such further sum by way of compensation, either by a single payment or by a life annuity, as they shall, with the consent of the Lords Commissioners of Her Majesty's Treasury, determine.

(*v*) Under this section the Commissioners have paid by way of gratuity a sum equal to one year's salary to all church officers not declared entitled to annuities under the

16th section, and who held office for two years before the 1st day of January, 1871. *Section 18.*
The total sum paid being £4,625 10s.

(w) No compensation has been paid under the latter part of this section, inasmuch as all persons entitled thereto made their claims, and were awarded annuities under the 16th section.

18. The Commissioners shall, as soon as may be after the passing of this Act, ascertain and by order declare the amount of compensation which ought to be paid to any person or body corporate who or which shall within three years therefrom make application in writing to this effect(x) for or in respect of any advowson, right of presentation or nomination to any benefice or cathedral preferment, vested in or belonging to such person or body corporate, and affected by the provisions of this Act,* and shall by and out of any monies for the time being in their hands pay(y) to such person or body corporate the amount of such compensation so ascertained and declared as aforesaid; but Her Majesty shall not, nor shall any corporation, sole or aggregate, dissolved by this Act, nor shall any trustees, officers, or persons acting in a public capacity, be entitled to compensation for or in respect of any advowson, right of presentation or nomination to any benefice or cathedral preferment vested in or belonging to Her Majesty or such corporation, trustees, officers, or persons: Provided always, that where any person would, but for the provisions of the statutes(z) affecting Roman Catholics in reference to conformity to the Established Church, have had at the passing of this Act any such advowson or right of presentation vested in him, he shall be entitled to compensation for such advowson or right of presentation in the same manner as if the same were then actually vested in such person.

(x) See form of application, *post*, page 235.

The Commissioners did not require claimants to furnish full abstracts of title—such as would be given to a purchaser—but only such a statement of title as would show that the persons claiming compensation were entitled to receive it; and it was deemed sufficient, in the first instance, to furnish evidence of the last three presentations, and by whom they were made, and to give an abstract of the last settlement or will by which the devolution of the estate was regulated; and the Commissioners awarded a “reasonable” sum for the costs of furnishing such statement of title and of supplying any additional information, in case they called for it.

The Commissioners decided to take the value of advowsons as at the date of the passing of the Act (26th July, 1869), and pay interest on compensation money, at the rate of £4 per cent. per annum, from that date, to date of payment of compensation money.

The Commissioners adopted the scale set forth in the judgments delivered by the arbitrators in the cases of the Marquess of Drogheda and Lord Devon (*post*, page 121), in ascertaining the amount of compensation in each case.

(y) £720,000 has been paid as compensation to lay patrons up to 31st December, 1875.

(z) The statute, 2 Anne, c. 6, s. 25, vested in the Crown all advowsons belonging to Roman Catholics until such time as they should legally conform to the Established Church.

Arbitrations.—The General Rules (*post*, page 166), provide that:—

“Any person aggrieved by the value set by the Commissioners on any advowson or right of presentation, and desiring to refer the same to arbitration, shall be bound to serve notice on the Commissioners, of such his desire, within one month after the date of the posting of the letter notifying to him the value set thereon by the Commissioners.” Arbitrations are conducted in manner directed by “The Railway Clauses Consolidation Act, 1845.” See *post*, page 52. [See also 65th section.]

Appeals to arbitration.

* See section 70, *post*, page 39, which saves patronage in certain cases.

Section 19.

POWERS OF CHURCH AFTER PASSING OF ACT.

Repeal of laws prohibiting holding of synods, &c.

19. From and after the passing of this Act there shall be repealed and determined any Act of Parliament, law, or custom whereby the archbishops, bishops, clergy, or laity of the said Church are prohibited from holding assemblies, synods or conventions, or electing representatives thereto, for the purpose of making rules for the well-being and ordering of the said Church; and nothing in any Act, law, or custom shall prevent the bishops, the clergy, and laity of the said Church, by such representatives, lay and clerical, and to be elected as they the said bishops, clergy, and laity shall appoint, from meeting in general synod or convention, and in such synod or convention framing constitutions and regulations for the general management and good government of the said Church, and property and affairs thereof, and the future representation of the members thereof in diocesan synods, general convention, or otherwise.

The Irish Convention Act, 33 George III., c. 29, is repealed by this section.
[See note to section 22.]

Existing law to subsist by contract.

20. The present ecclesiastical law of Ireland, and the present articles, doctrines, rites, rules, discipline, and ordinances of the said Church, with and subject to such (if any) modification or alteration as after the first day of January one thousand eight hundred and seventy-one may be duly made therein according to the constitution of the said Church for the time being, shall be deemed to be binding on the members for the time being thereof in the same manner as if such members had mutually contracted and agreed to abide by and observe the same, and shall be capable of being enforced in the temporal courts (a) in relation to any property which under and by virtue of this Act is reserved or given to or taken and enjoyed by the said Church or any members thereof, in the same manner and to the same extent as if such property had been expressly given, granted, or conveyed upon trust to be held, occupied, and enjoyed by persons who should observe and keep and be in all respects bound by the said ecclesiastical law, and the said articles, doctrines, rites, rules, discipline, and ordinances of the said Church, subject as aforesaid; but nothing herein contained shall be construed to confer on any archbishop, bishop, or other ecclesiastical person any coercive jurisdiction whatsoever: Provided always, that no alteration in the articles, doctrines, rites, or, save in so far as may be rendered necessary by the passing of this Act, in the formularies of the said Church, shall be binding on any ecclesiastical person now licensed as a curate or holding any archbishopric, bishopric, benefice, or cathedral preferment in Ireland, being an annuitant or person entitled to compensation under this Act, who shall within one month after the making of such alteration signify in writing to the Church body hereafter mentioned his dissent therefrom, so as to deprive such

person of any annuity or other compensation to which under this *Section 21.* Act he may be entitled.

(a) No case has yet arisen under this section in the temporal courts, but it would appear therefrom that any clergyman entitled to an annuity under any provision of this Act is bound to discharge his duty in the manner he would have discharged it, if this Act had not passed, and that the temporal courts have power to force him to do so, subject to the other provisions of this Act, and the ecclesiastical law of Ireland as it existed before 1st January, 1871. See case of Rev. R. H. Graves, *post*, page 151. See also section 14, *ante*, page 7.

21. On and after the first day of January one thousand eight hundred and seventy-one all jurisdiction, whether contentious or otherwise, of all the ecclesiastical, peculiar, exempt, and other courts and persons in Ireland at the time of the passing of this Act having any jurisdiction whatsoever exerciseable in any cause, suit, or matter, matrimonial, spiritual, or ecclesiastical, or in any way connected with or arising out of the ecclesiastical law of Ireland, shall cease; and on and after the said first day of January one thousand eight hundred and seventy-one the Act of the session of the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, chapter fifty-four, shall be repealed, and on and after the last-mentioned day the ecclesiastical law of Ireland, except in so far as relates to matrimonial causes and matters, shall cease to exist as law.

Abolition of ecclesiastical courts and ecclesiastical law.

Court for Matrimonial causes and matters.

A new court for matrimonial causes and matters has been established by the Act 33 & 34 Vic., c. 110, in connexion with the Court of Probate in Ireland.

22. If at any time it be shown to the satisfaction of Her Majesty that the bishops, clergy, and laity of the said Church in Ireland, or the persons who, for the time being, may succeed to the exercise and discharge of the episcopal functions of such bishops, and the clergy and laity in communion with such persons, have appointed any persons or body to represent the said Church, and to hold property for any of the uses or purposes thereof, it shall be lawful for Her Majesty by charter to incorporate such body, with power, notwithstanding the statutes of mortmain, to hold lands to such extent as is in this Act provided, but not further or otherwise.

Incorporation of Church body.

The archbishops, bishops, clergy, and laity, at a General Convention held in 1870, appointed a body to represent the Church of Ireland and to hold property for any of the uses or purposes thereof, and authorized such Representative Body to apply to Her Majesty for a Charter of Incorporation. The Body thus elected consisted of sixty members, composed in the following manner, viz.:—twelve bishops, sitting *ex officio*, one clergyman and two laymen elected by each diocese or united diocese, and twelve co-opted members.

Appointment of Representative Church Body.

On the application of the Representative Body, Her Majesty, on the 15th day of October, 1870, by Royal Charter incorporated the members of the said Body and their successors to be one Corporation or Body politic, by the name of "The Representative Church Body." (See Charter, *post*, page 169.)

DEALINGS BETWEEN COMMISSIONERS AND REPRESENTATIVE CHURCH BODY.

23. In the event of a representative corporate body, herein after referred to as "the representative body of the said Church," being constituted in pursuance of this Act to represent the said Church, any archbishop, bishop, or person holding any such

Redemption of annuities and life interest of ecclesiastical persons by

Section 23. benefice or cathedral preferment as aforesaid, or any curate entitled to an annuity under this Act, may after the first day of January one thousand eight hundred and seventy-one apply (b) to the Commissioners to commute his annuity and the value of his life interest, if any, in any ecclesiastical property held by him in pursuance of this Act, exclusive of any income derived from pew rents and burial fees (c), for a capital sum; and the Commissioners, if satisfied that such annuity and life interest is unincumbered, or, if incumbered, that the incumbrancers consent to the commutation, and that the said representative body assent to such commutation, and also, in the case of a curate, that the incumbent (if any) from whose income the salary of such curate has been deducted as aforesaid assents, shall cause the then present value of such annuity and also of such life interest, exclusive as aforesaid, to be estimated (d), and shall pay the amount of such estimated value to the representative body of the said Church charged with the payment of the annuity in respect of which the capital sum is paid, so long as the annuitant requires such payment to be made, but with power to the representative body of the said Church to make such arrangements in respect of the commuted value of the annuity with the annuitant, and as to the disposal of such portion thereof as shall after such arrangements be applicable to Church purposes, as shall to such body seem fit; and upon such capital sum being paid, the annuity of such applicant shall cease, and all the estate and interest of the said applicant in any such ecclesiastical property as aforesaid shall vest in the Commissioners. (e)

(b) For forms of application, see forms, *post*, page 227.

(c) See ruling *In re* Archdeacon of Dublin and others, *post*, page 105, and *In re* Rev. M. A. C. Collis, *post*, page 108.

Mode of
estimating
value of
life interest.

(d) See table for estimating value of life interests, *post*, page 164, the age taken being as that attained on the birth-day next *before* the time when the claim, with all necessary consents, was lodged in the Commissioners' office.

(e) The capital sums paid to the Representative Church Body for commutations under this section, up to 31st December, 1875, were as follows:—For

					Charged with annuities of			
1,382 Incumbents (including Archbishops and Bishops),	.	.	.	.	£5,819,687	10	2	£493,261 10 9
901 Curates,	.	.	.	.	1,731,873	14	0	96,503 14 7
2,283 Ecclesiastical persons a total of	.	.	.	.	£7,551,561	4	2	£589,765 5 4

Commu-
tation of
life interests
of non-
annuitants.

Compensa-
tion for
average re-
newal fines.

Any person having a life interest in ecclesiastical property in pursuance of this Act, although not the recipient of an annuity, shall be deemed to be an annuitant for the purposes of this section, and such life interest may be valued and commuted accordingly; provided that the value of the life interest in any ecclesiastical property of the said Church shall include the benefit (if any) derived from fines (f) paid on the renewal of leases, on an average of fourteen years preceding the first of January one thousand eight hundred and sixty-nine; and the Commissioners shall at any time between the first day of January one thousand eight hundred and seventy-one and the first day of January one thousand eight hundred and seventy-three, but not afterwards, if it appears to

them, as respects any diocese or united dioceses in Ireland, as the case may be, or as respects any Protestant nonconforming body or communion, that not less than three-fourths of the whole number of ecclesiastical persons in such diocese or united dioceses, or of the whole number of the ministers of such body or communion authorized to commute under this Act, have commuted or agreed to commute their life interests, pay in addition to the monies otherwise payable by them a sum equal to twelve pounds in the hundred on the commutation money payable in respect of each life interest, such addition to be disposed of in the same manner as the commutation money in respect of which it is added. (g)

Section 24.

Bonus to be paid on commutation money in certain cases.

(f) The Commissioners decided that the ordinary annual renewal fines should properly be included under the head of "Life Interest," and that compensation for fines on renewal of leases, on an average of fourteen years, could be given in those cases only where fines or a portion thereof were received in other than annual payments.

Compensation for renewal fines.

(g) In adjudicating on claims for payment of bonus the Commissioners decided that in the case of two or more dioceses united under one bishop, the bishop was the unit, and that it was necessary for three-fourths of the ecclesiastical persons under each bishop to commute in order to secure the bonus; and where there was an annuitant holding one or more annuities in any particular diocese or united diocese, he could not be counted among the three-fourths of the ecclesiastical persons of such diocese, in order to secure the bonus, unless such annuitant commuted for all his annuities; and with respect to *Curates*, they further decided that permanent curates, holding annuities under 15th section, were to be counted in making up the number of ecclesiastical persons in any diocese or united diocese, the definition of the word "ecclesiastical person" in the construction of the Act being inclusive, and not exclusive. See reports of leading cases affecting commutations, *post*, page 83.

Claims for bonus.

24. When any annuity is commuted as aforesaid, the Commissioners shall, as soon as may be, ascertain and by order declare the amount of any building charge to which the archbishop, bishop, incumbent, or person holding such cathedral preferment, and therefore entitled to such annuity as aforesaid, or any person or persons claiming through or under him, may be entitled, after deducting such sum or sums of money (if any) as the Commissioners may ascertain and declare to be just in respect of any dilapidations or want of proper repair in any of the buildings subject to such charge, and the Commissioners shall thereupon pay to such archbishop, bishop, or person holding such benefice or cathedral preferment, or any person or persons claiming as aforesaid (as the case may be), the principal sum (if any) so ascertained and declared to be payable to him or them in respect of such building charge as aforesaid.

Building charge to be paid on commutation of annuity.

See form of application for payment of building charge, *post*, page 237.

In assessing dilapidations under this section the Commissioners gave the ecclesiastical person the option of agreeing to a deduction of ten per cent. per annum on the annual value of the glebe house, garden, and curtilage, for the number of years the same was in his occupation in place of having a survey of premises made by their architects.

Dilapidations of glebe houses.

The sums received for dilapidations have been paid to the Representative Church Body, pursuant to 5th section of the Act of 1872, *post*, page 43.

25. The following enactments shall be made with respect to churches vested in the Commissioners under this Act:

Enactments with respect to churches.

(1.) Where any church or ecclesiastical building or structure appears to the Commissioners to be ruinous, or if a church to be wholly disused as a place of public worship, and

Buildings to be vested, as National Monuments.

Section 25.

not suitable for restoration as a place of public worship, and yet to be deserving of being maintained as a national monument by reason of its architectural character or antiquity, the Commissioners shall by order vest such church, building, or structure in the secretary of the Commissioners of Public Works in Ireland, to be held by such secretary, his heirs and assigns, upon trust for the Commissioners of Public Works, to be preserved as a national monument, and not to be used as a place of public worship, and the Commissioners shall ascertain and by order declare what sum is in their judgment required for maintaining as national monuments the churches, buildings, and structures so vested, and shall pay such sum accordingly to the said secretary, to be held upon trust for the said Commissioners, and to be applied by them in maintaining the said churches, buildings, and structures : (h)

National
Monuments
vested in
Board of
Works.

(h) The following ecclesiastical structures have been vested in the Board of Public Works in Ireland in accordance with this provision, and the sum of £22,554 has been paid for the maintenance thereof, viz. :—

County Fermanagh.—Devenish Church and Round Tower, in the parish of Devenish, and barony of Magheraboy.

County Tyrone.—Donaghmore Stone Cross, in the parish of Donaghmore, and barony of Middle Dungannon.

County Louth.—Monasterboice Church, Round Tower, and three crosses, in the parish of Monasterboice, and barony of Ferrard.

County Meath.—Donaghmore Church and Round Tower, in the parish of Donaghmore, and barony of Ratoath; St. Columb's House, Kells, in the parish of Kells, and barony of Upper Kells.

County Mayo.—Killala Round Tower, in the parish of Killala, and barony of Tyrrawley.

County Kilkenny.—Killamery Stone Cross, in the parish of Killamery, and barony of Kells; Kilkeeran Stone Cross, in the parish of Kilkeeran, and barony of Gowran.

County Tipperary.—Ecclesiastical ruins on "The Rock of Cashel;" Kilclisplan, two stone crosses in the parish of Newtown Lennan, and barony of Iffa and Offa East.

County Waterford.—Ardmore Cathedral, Round Tower, and St. Declan's Tomb, in the same enclosure, in the parish of Ardmore, and barony of Decies-within-Drum.

County Wicklow.—The ruins of the Seven Churches, in the valley of Glendalough, with the Round Tower, stone crosses, and the other ecclesiastical buildings or structures.

County Kerry.—Ardfert Cathedral, and ruins of two churches in the parish of Ardfert, and barony of Clanmaurice; Gallerus Church, in the parish of Kilmalechedar, and barony of Corkaguiney.

Churches
to be vested
in Representa-
tive Body.

- (2.) Where any church is in actual use at the time of the passing of this Act, and the representative body of the said church, at any time within six months after the first of January, one thousand eight hundred and seventy-one, apply to the Commissioners stating that they require such church for religious purposes, or for the purpose of taking the same down and erecting or enlarging another church or churches in lieu thereof, the Commissioners shall by order vest the church in the said representative body of the said Church, subject to any life estate or interest that is existing therein : (i)

(i) All churches in Ireland vested in the Commissioners were duly claimed by the Representative Church Body, and were vested in that body in pursuance of this section.

- (3.) Where any church was in use at the time of the passing of this Act, and no application in respect thereof is made by the said representative body of the said Church within the said prescribed period, and such church was erected at the private expense of any person, the Commissioners shall, on the application of the person who erected such church, if alive, or of his representatives if he died since the year one thousand eight hundred, by order vest such church in the applicant or applicants, or in such person or persons as he or they may direct: Section 26.
Churches of
private
persons.
- (4.) Where any church vested in the Commissioners under this Act is not disposed of under the preceding sections, the Commissioners shall dispose of such church and the site thereof in such manner as they think expedient: Unvested
churches.
- (5.) Where any church is vested in the representative body of the said church by order of the Commissioners, any school-house belonging thereto or used in connexion therewith, together with any land occupied with such school-house, and by this Act vested in the Commissioners, shall be included in the said order: Vesting of
school-
houses.
- (6.) No vesting order made under this section shall prejudice or affect the right of any person or persons to any vault or other place of burial within any church or ecclesiastical building, and every such vesting order shall be deemed to be subject thereto, and to all such other rights of sepulture therein as may be subsisting at the date of such order. Rights of
sepulture
in vaults.
26. The following enactments shall be made with respect to burial grounds vested in the Commissioners: Enactments
with respect
to burial
grounds.
- (1.) Where any church vested in the representative body of the said Church has a burial ground annexed or adjacent thereto, but not separated therefrom by any carriage highway, or that has been granted by a private donor to, or exclusively used by, the parishioners attending the said church, such burial ground shall be included with the church in the order made by the Commissioners, subject to any life estate or interest subsisting therein, and pass to the said representative body, accordingly, but without prejudice to such rights of or in respect of burial as may be subsisting therein, or may be thereafter declared to subsist therein by Act of Parliament; or the Commissioners shall, at the option of the said representative body, vest such burial ground in the guardians of the poor law union within which the same may be situate, subject to a right of way in the said representative body, and the clergy and congregation attending the said church, and such other persons as may resort thereto for the purpose of Divine worship, or for the purpose of repairing the said church, or for any other lawful purpose; and such guardians shall not allow any funeral

Section 26:

to take place during the usual time of the ordinary services in the said church, and shall make such other regulations as may be found necessary from time to time to prevent any interference by persons attending funerals with the clergy or congregation attending the said church, and shall keep the wall or other fence, and the gates or doors of, and any road or path through, such burial ground to the church situate therein in good and sufficient repair, and shall, as far as may be consistently with the provisions hereinbefore contained, hold such burial ground for the same purposes, and subject to the same rules and regulations, as if such burial ground were a burial ground purchased or taken by such guardians, being a burial board under the provisions of "The Burial Act (Ireland), 1856," and the statutory amendments thereof, for the time being, but without prejudice to such rights of burial as may be subsisting therein at the date of such order, or may thereafter be declared to subsist therein by Act of Parliament :

Burial
grounds
annexed to
national
monuments.

- (2.) Where any church conveyed to the secretary to the Commissioners of Public Works for Ireland as aforesaid has a burial ground annexed or adjacent thereto, and also in every case other than those hereinbefore provided for in which a burial ground is vested in the Commissioners under this Act, unless such burial ground is in any private park, demesne, or ornamental grounds, the Commissioners shall vest such burial ground in the guardians of the poor of the poor law union within which the same may be situate, to be held by such guardians for the same purposes, and subject to the same rules and regulations, as if such burial ground were a burial ground purchased or taken by such guardians, being a burial board under the provisions of the Burial Act (Ireland), 1856 (*j*), and the statutory amendments thereof, for the time being, but without prejudice to such rights of burial as may be subsisting therein at the date of such order, or may thereafter be declared to subsist therein by Act of Parliament; and the Commissioners may, in the case of burial grounds situate in private parks, demesnes, or ornamental grounds, vest the same in such person and in such manner as the Lord Lieutenant in Council may direct in each particular instance.

Burial
grounds
in private
demesnes.

(*j*) The principal regulations of the statute cited are:—

- 1st. The burial ground in each case shall be under the management of the Poor Law Guardians, subject to the control of the Local Government Board, and the expense of keeping the same in repair is thrown on the union.
- 2nd. The fees for interments are fixed, and a table of them posted up in some conspicuous part of the burial ground.
- 3rd. The guardians may sell exclusive right of burial in any part of burial ground, and for erecting monuments, &c.; but such right is limited to one-half of the burial ground.
- 4th. Animals are not permitted to graze on burial ground, or within its limits, under a penalty of not less than one shilling, or more than two shillings.

27. Where there is any ecclesiastical residence vested in the Commissioners which at the time of the passing of this Act or within six months prior thereto is or has been occupied as a residence by any ecclesiastical person performing or aiding in the performance of the services in any church vested in the representative body of said Church in pursuance of this Act, or in any building temporarily used in place of a church, or where such residence being a see house is or has been occupied by the archbishop or bishop of the see to which such residence belongs at the time of the passing of this Act, or within six months prior thereto, the Commissioners shall, on the application of the representative body of the said Church, by order vest in that body such ecclesiastical residence, with the garden and curtilage (*k*) thereto, subject to such life estate or interest, if any, as may be then subsisting therein, upon payment to the Commissioners of such sum as is hereinafter mentioned, that is to say, where there is no building charge affecting the same, upon payment to the Commissioners of a sum equal to ten times the amount of the annual value of the site of such ecclesiastical residence estimated as land, and of the said garden and curtilage, such value to be determined in case of disagreement by arbitration; and where there is a building charge affecting the same, on payment to the Commissioners of such one of the two sums hereinafter mentioned as may be the smallest, that is to say, either the amount of such building charge or a sum equal to the value of such ecclesiastical residence, with the garden and curtilage thereto, taken at ten years' purchase of the annual value as estimated by the general tenement valuation, such valuation and payment to be made, if there be no life estate or interest subsisting in such residence, at the time of the making of the said vesting order, but if there be a life estate or interest subsisting therein, then such valuation, and also the payment to the Commissioners or persons entitled thereto in place of the Commissioners, to be made immediately after the determination of such life estate or interest (*l*).

Section 27.

Enactments with respect to ecclesiastical residences.

Statutable price of residences.

(*k*) "Curtilage" has been defined to mean "the offices and enclosed yard attached to a dwelling-house."

Definitions of curtilage.

(*l*) The Representative Church Body have claimed 880 ecclesiastical residences, which are being vested in that body, as speedily as the maps of the land conveyed therewith are prepared by the Ordnance Survey Department.

Where the payment of the amount of any building charge or sum as aforesaid is deferred in pursuance of this section, the amount thereof shall be deemed to be a lien on the said ecclesiastical residence, and the garden and curtilage thereto, in the nature of a lien for unpaid purchase money, but it shall not bear interest until the same becomes payable in pursuance of this section (*m*).

Payment of deferred purchase-moneys.

(*m*) No case has yet arisen involving a calculation of deferred purchase-money.

28. Where any ecclesiastical residence is by order of the Commissioners vested in the representative body of the said Church, the Commissioners may, on the application of the said body, by

Power to convey additional land to Church body.

Section 29. order vest a further portion of land in the said body ; that is to say,

- (1.) In the case of a see house a quantity of land not exceeding thirty acres, being land usually occupied with the said see house ;
- (2.) In the case of any other ecclesiastical residence a quantity of land not exceeding ten acres, being land usually occupied with the said ecclesiastical residence :

Provided always, that if the Commissioners shall be of opinion that for the convenient enjoyment of the said house or residence, or by reason of the severance which would otherwise take place, an additional quantity of land should be granted, they shall by order vest such additional land in the said body.

There shall be paid to the said Commissioners by the said representative body as the price of the land to be vested in them in pursuance of this section such sum as may be agreed upon or may be determined by arbitration.

Any vesting order made by the Commissioners in pursuance of this section shall have annexed thereto a map accurately defining the land thereby vested.

Trees on
mensal
lands.

With respect to trees on mensal lands the following resolution was adopted by the Representative Church Body on 22nd April, 1874, viz.—“That no trees growing on lands the property of the Representative Body shall be cut down without the permission of the Representative Body, obtained through the Diocesan Council, who shall take such steps for their being cut down and sold as they may think fit ; and on the trees being sold, the proceeds shall be transmitted to the Representative Body, to be held for the benefit of the Parish.”

Enactments
with respect
to private
endowments.

29. In lieu of any real or personal property becoming vested in the Commissioners by virtue of this Act which may consist or be the produce of property or moneys given by private persons out of their own resources, or which may consist of or be the produce of moneys raised by private subscription, and without prejudice to any life interests preserved or secured by this Act, the Commissioners shall, on the application of the representative body of the said Church, pay as at the end of six calendar months after the first day of January one thousand eight hundred and seventy-one to such representative body the sum of five hundred thousand pounds sterling ; but such payment shall be without prejudice to any claim in respect of any particular private endowment which may within twelve months after such payment be substantiated against the said sum.

Claims in
respect of
private en-
dowments
substan-
tiated.

Private
endowments
saved.

Moveable
chattels
belonging to

The capital sum mentioned in this section was paid by the Commissioners to the Representative Church Body on 1st July, 1871, and it appears from the report of that body, presented to the General Synod of the Church of Ireland in 1874, that the claims substantiated in respect of particular private endowments (including Boulter and Robinson Funds) amounted to £350,000. The report also states that there were many other private endowments of the Church of Ireland confiscated by the Act, but that claims in respect of them could not be now established from a variety of causes, such as loss of documents, lapse of time, &c., &c.

Private endowments held for the purposes of any proprietary, or district parochial church, or endowed chapel of ease, are saved by the 70th section (see *post*, page 39)

30. All plate, furniture, and other moveable chattels belonging to any church or chapel, or used in connexion with the celebration

of Divine worship therein, shall vest in the representative Church body when incorporated; and subject to the life enjoyment of same by the existing incumbents, all moveable chattels held and enjoyed by the incumbent for the time being of any see, cathedral preferment, and benefice in his corporate right, together with or as incident to the occupation of any ecclesiastical residence, shall also vest in the same body when incorporated; and where any property is vested in any ecclesiastical or cathedral corporation in Ireland in trust for the poor or any other charitable purpose, the dissolution of such corporation shall not affect the continuance of the trust, but such property shall immediately upon such dissolution vest in the representative body of the said Church, or, in default of and until the same shall be constituted, in the Commissioners for the execution of this Act, but subject always to the trusts affecting the same, and under the same supervision, local or otherwise, as theretofore, or as near thereto as the circumstances of the case will admit; and in all cases where ecclesiastical persons are at present in right of their dignities or offices entitled to be members of any lay corporations constituted for the management of any private endowment, or are trustees for the management of property belonging to institutions of private foundation for purposes not ecclesiastical, then the persons (if any) who shall hereafter at any time discharge duties similar or analogous to those now discharged by such ecclesiastical persons shall be entitled to succeed in their room, and be members of such lay corporations, and to act as such trustees (n).

Section 20
see or
church.

Charitable
trusts.

(n) The second section of the Act to amend the Law of Charitable Donations and Bequests in Ireland of 1867* (30 and 31 Vic., cap. 54) provides, that the Commissioners of Charitable Donations and Bequests "shall receive and consider all applications which may be made to them by any trustee or other person having any concern in the management or administration of any charity for their opinion, advice, or direction respecting such charity, or the management or administration thereof, or the estate, funds, property, or income thereof, or the application thereof, or any question or dispute relating to the same respectively, and, if they so think fit, may, upon any such application, give such opinion or advice as they may think expedient, subject to any judicial order or direction which may be subsequently made or given by any competent court or judge; and such opinion or advice shall be in writing (and be authenticated by the Seal of the Commissioners, &c.) and every trustee and other person who shall act upon or in accordance with the opinion or advice given by the said Board shall, in respect of so acting, be deemed and taken, so far as respects his own responsibility, to have acted in accordance with his trust; and no such judicial order or direction subsequently made or given by any court or judge shall have any such retrospective effect as to interfere with or impair the indemnity by this Act given to trustees and other persons who have acted upon or in accordance with such opinion or advice of the Commissioners: Provided always, that nothing herein contained shall extend to indemnify any trustee or other person for any act done in accordance with the opinion or advice of the Commissioners, if such trustee or other person has been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion or advice."

Charitable
Donations
and Bequests
Acts.

The fourth section of the same Act requires notice to be given to the Commissioners of Charitable Donations and Bequests by any person (except the Attorney-General) before taking legal proceedings as to any charity.

The twenty-first section of the same Act requires officers who have the custody of records, or other documents which concern any charity, to furnish such copies or extracts as shall be required by the said Commissioners without fee or payment in respect thereof, and likewise empowers the officers of the said Commissioners to examine and make searches in all places where records are deposited.

* As amended by 34 & 35 Vic., c. 102, s. 5.

MANAGEMENT OF PROPERTY BY COMMISSIONERS.

Section 31.

Limitation
of right to
purchase
fee simple
in consider-
ation of
perpetual
rent.

31. No application under the Act of the session of the third and fourth years of King William the Fourth, chapter thirty-seven, and the Acts amending the same, or any of them, by any immediate or inferior tenants, for the purchase or conveyance of the fee simple and inheritance of any lands, shall be made after the expiration of three years from the first day of January, one thousand eight hundred and seventy-one, but save as aforesaid nothing in this Act contained shall prejudice or affect the right of any such immediate or inferior tenant to purchase or have such conveyance of the fee simple and inheritance as aforesaid :

In any case in which by any of the provisions of the said Acts it is required that anything relating to any such purchase or conveyance, or to the renewal of any lease, shall be done by the Ecclesiastical Commissioners for Ireland, such provision shall be construed as if the Commissioners hereby constituted were named therein instead of such Ecclesiastical Commissioners.

See General Rules, *post*, page 163, and 12th Section of Act of 1872, *post*, page 47 ; also third paragraph of 12th Section, *ante*, page 6 ; and judgment *In Re John Leslie*, *post*, page 92.

The sales of conversions of renewable leases into perpetuities between 26th July, 1869, and 31st December, 1875, produced £333,534 17s. 8d., against £168,000 received by the Ecclesiastical Commissioners in the preceding twenty-four years.

The following is a list of the Statutes which affected Ecclesiastical Leases, in Ireland, prior to the passing of Church Temporalities Act of 1833 :—

- 10 and 11 Car. I., c. 2, s. 7—(Residence of Clergy).
- " " c. 3—(Disabling and Amending Act).
- 14 and 15 Car. II., c. 2, ss. 104-106—(Augmentation Lands).
- 17 and 18 " c. 2, ss. 19-25.
- 10 Will. III., c. 6, s. 7—(Leases of Glebes).
- 4 Geo. I., c. 14, ss. 7 and 8—(Demesne of Archbishop of Tuam).
- 10 " c. 5—(Mines).
- 12 " c. 9, s. 6—(Free Schools).
- 12 " c. 12, ss. 13-18—(Bog).
- 1 Geo. II., c. 15—(Leases by Incumbents of Parishes in Towns).
- 11 " c. 15—(Amendment of 10 Car. I., c. 3).
- 15 " c. 5—(Mensal Lands).
- 15 " c. 10—(Coal Mines).
- 19 " c. 16—(Mensal Lands of Archbishop).
- 23 " c. 9—(Coal Mines and lands belonging to Free Schools).
- 1 Geo. III., c. 7, s. 9—(Custom Houses, &c.)
- 7 " c. 7—(Wide Streets, Dublin).
- 7 " c. 8—(County Infirmarys).
- 11 and 12 Geo. III., c. 17, s. 12—(Free Schools).
- " " c. 21—(Unprofitable Bog).
- " " c. 30, s. 4—(Houses of Industry).
- 17 and 18 " c. 46—(Harcourt-street, Dublin).
- 21 and 22 " c. 12
- " " c. 28—(Old School House Sites).
- 25 Geo. III., c. 62—(Corn and Machinery Mills).
- 27 " c. 57, s. 3—(House of Industry, Dublin).
- 31 " c. 39—(Royal Mining Co.)
- 35 " c. 23—(Amendment of 10 and 11 Car. I., c. 3. Leases and renewals by Ecclesiastical Persons).
- 37 Geo. III., c. 44—(Parish Estates).
- 53 " c. 92—(Mensal Lands, renewals of leases).
- 5 Geo. IV., c. 91—(Residence of Clergy).

Sale of tithe
rent-charge
to owners of
land.

32. (o) The Commissioners may at any time after the first day of January, one thousand eight hundred and seventy-one, sell any

rentcharge in lieu of tithes vested in them under this Act to the owner of the land charged therewith in consideration of a sum equal to twenty-two and a half times the amount of such rentcharge; and upon any such sale being so made, the Commissioners shall by order declare the rentcharge to be merged in the land out of which it issued, and the same shall merge and be extinguished accordingly. Section 32.

Upon the application of any owner so purchasing, the Commissioners may by order declare his purchase money or any part thereof to be payable by instalments, and the land out of which such rentcharge issued to be accordingly charged as from a day to be mentioned in such order for fifty-two years thence next ensuing with an annual sum calculated at the rate of four pounds nine shillings per centum on the purchase money, less such sum in the pound as such owner shall be ascertained by the Commissioners to have been on an average of five years preceding the passing of this Act entitled to deduct for poor rates from the tithe-rentcharge payable by him, or for such less number of years as may be agreed upon at an equivalent annual sum, so as to discharge the principal and interest in such less number of years. The annual sum charged by such order shall have priority over all charges and incumbrances, except quit or crown rents, and shall be payable by the same persons, and be recoverable in the same manner, and be subject to the same charges, if any, as the rentcharge in lieu of tithes heretofore payable out of the same lands.

“Owner” for the purposes of this section shall mean the person for the time being liable to pay rentcharge in lieu of tithes under the provisions of the Act of the first and second years of the reign of Her present Majesty, chapter one hundred and nine.

(c) The 7th Section of the Act 35 & 36 Vic., c. 90 (see *post*, page 45), is substituted for this section from the 10th August, 1872. The only practical difference between the two sections is, that a deduction is made for Poor Rates in estimating purchase money, whether payable in *Cash*, or on *Loan System*, under the Amendment Act, whereas such deduction was only allowed in the principal Act where the purchase money was paid by *Loan System*.

See instructions issued by the Commissioners for the information of owners desirous of purchasing their tithe rent-charge (*post*, page 191).

Tables are printed (*post*, page 193), showing the sum to be paid in cash for any amount of tithe rent-charge, and for converting the same into an annuity of almost equal amount with that heretofore payable, extending over fifty-two years.

Where rent-charge is converted into an annuity, the outstanding instalments can at any time be redeemed on favourable terms.—See Table for redeeming instalments extending over fifty-two years, *post*, page 195.

The total annual tithe rent-charge vested in the Commissioners was about £400,000, of which the capital value was £9,000,000. Up to 31st December, 1875, £173,738 per annum of rent-charge has been either extinguished by cash purchases, or converted into terminable annuities, leaving a balance of about £230,000 per annum (Capital value about 5,300,000), which will be payable in perpetuity unless redeemed in the manner provided by the foregoing Section.

The Commissioners do not appear to have any power to sell tithe rent-charge, except as provided in the Act above quoted. It has been erroneously supposed that sales by auction might be made of tithe rent-charge under 34th Section, but on referring to that section it will be observed that the property therein referred to altogether consists of land and rights appertaining thereto.

No legal expenses are payable by owners who either purchase or convert their rent-charges, as the merging orders are prepared free of expense by the Commissioners, by whom the stamp duty is payable pursuant to the 10th Section of the Act 35 & 36 Vic., c. 90 (*post*, page 46).

Section 33. Income Tax is deductible from annual instalments, in redemption of tithe-rent-charge, as provided by the 11th Section of the Act 35 and 36 Vic., c. 90 (*post*, page 46).

Commissioners may purchase surrender or assignment of lease of tithes. 33. The Commissioners may, in order to the commutation of tithe rent-charge, purchase the surrender or assignment of any subsisting lease (*p*) of tithe rent-charge made by an ecclesiastical person or corporation.

(*p*) The 8th Section of the Act 35 and 36 Vic., c. 90 (*post*, page 46), empowers the Commissioners to treat all leases renewable by custom, previous to 26th July, 1869, as renewable leases for the purpose of estimating the value and fixing the purchase money thereof; and the 9th Section of the same Statute gives an appeal to arbitration to any person aggrieved by the value set by the Commissioners on his lease.

Power to Commissioners to sell property vested in them by this Act.

34. The Commissioners may at any time after the first of January, one thousand eight hundred and seventy-one, sell by public auction or private contract, or otherwise convert into money, any real or personal property vested in them by this Act (*q*), subject to the other provisions of this Act, and to the following conditions:

(*q*) See instructions to tenants, *post*, page 197.

Right of pre-emption to owners.

(1.) They shall not sell to the public any perpetual yearly rent issuing out of any land, or any right to mines or quarries in any land, where the fee-simple of the land subject to such rent or right is vested in some person other than the Commissioners, until they have given notice to the owner of such land that they are willing to sell the same to him at the price hereinafter mentioned, and the owner has declined to accept their offer: (*r*)

(*r*) See form of offer, *post*, page 244.

Sale of perpetuity rents.

(2.) Perpetuity rents shall be offered to the owner of the land out of which they issue at a capital sum equal to twenty-five times the annual amount of such rents: (*s*)

(*s*) These rents (save in about 60 exceptional cases), were offered to the owners in December, 1874.

Mines and quarries.

(3.) The price of the rights to mines or quarries shall be fixed by the Commissioners by order: (*t*)

(*t*) In many cases these rights were ascertained to be merely nominal, and were conveyed for a sum of five pounds in the same conveyance as that which conveyed the perpetuity rent.

No sale to take place until life interest is extinguished.

(4.) They shall not sell to the public the fee-simple of any land in which any archbishop, bishop, or person holding any such benefice or cathedral preferment as aforesaid has a life interest during the continuance of such life interest:

Renewable leases.

(5.) They shall not sell to the public the fee-simple of any land which is held immediately from or under the Commissioners by virtue of any lease or tenancy, until they have given notice to the lessee or tenant that they are willing to sell the fee-simple to him for a price to be named by the Commissioners in such notice, and such lessee or tenant has declined to accept their offer; and

they shall not sell to the public the fee-simple of any land which is held immediately from or under the Commissioners by virtue of any lease for twenty-one years or for three lives, or twenty-one years, or for forty years, or for three lives, until the expiration of three years from the first day of January, one thousand eight hundred and seventy-one : Section 34.

- (6.) Notice shall be given to the owner, where such owner is known to the Commissioners, by sending by post a letter containing the terms of the offer addressed to him at his last known place of abode; where he is not known, notice may be given by advertising the terms in the *Dublin Gazette*, and in one or more local newspapers as the Commissioners may determine : Service of notice.
- (7.) An owner shall be deemed to have declined to accept the offer of the Commissioners if he do not accept the same in writing, and pay or secure the purchase money to the Commissioners within three months after the giving of such notice as aforesaid : Test that offer has been declined.
- (8.) "Owner of land" for the purposes of this section shall include a "limited owner" as defined by the "Landed Property (Ireland) Improvement Act, 1860;"* and any limited owner may raise the money required for any purchase under this section, or any part thereof, by mortgage (at a rate of interest not exceeding five pounds per centum per annum) of the land of which he is such limited owner as aforesaid. Definition of "Owner."
Power of limited owner to raise money.

Any person purchasing from the Commissioners shall hold the lands, tenements, and hereditaments purchased by him subject to all tenants' rights of renewal to which the same were subject in the hands of the Commissioners at the time of such sale. (u) Saving clause.

(u) The rental of the Commissioners from their landed property originally amounted to £225,622 (including fines), and was divided into the following classes, viz. :—

Perpetuity Tenants,	1,712
Tenants with Renewable Leases,	419
Yearly and other Tenants,	8,432
Total,	10,563

*Note—A "Limited owner," as defined by the "Landed Property (Ireland) Improvement Act, 1860," means any person entitled under any existing or future settlement at law or in equity, for his own benefit, and for the term of his own life, to the possession or receipt of the rents and profits of land, whether subject or not to incumbrances, in which the estate for the time-being, subject to the trusts of the settlement, is an estate for lives or years, renewable for ever, or is an estate renewable for a term of not less than sixty years, or is an estate for a term of years of which not less than sixty are unexpired, or is a greater estate than any of the foregoing estates (sec. 7); also, any body corporate, any corporation sole, ecclesiastical or lay, any trustees for charities, and any commissioners and trustees for ecclesiastical, collegiate, or other public purposes, entitled at law or in equity in the case of freehold land to the fee-simple, and in the case of leasehold land to a lease for an unexpired residue of not less than sixty years, or for a term of years or of lives renewable for ever, or renewable for a period of not less than sixty years (sec. 24); also, the guardians, committees, or husbands of limited owners under disability. [23 & 24 Vic. c. 153.]

Section 35.

The following tables show the number of offers of pre-emption made to tenants pursuant to the foregoing section, and the particulars of sales, where the treaties for purchase are concluded, for each year, from 1871 to 1875, inclusive:—

TABLE I.—OFFERS of PRE-EMPTION made to TENANTS.

YEAR.	Number of Offers.	Gross Annual Rents.	Purchase Money Demanded.
		£ s. d.	£ s. d.
1871, . . .	927	15,654 16 10	377,448 10 3
1872, . . .	140	1,314 8 11	29,937 18 7
1873, . . .	996	16,438 14 2	381,563 12 4
1874, . . .	4,392	138,103 18 6	3,403,754 9 0
1875, . . .	2,895	35,679 18 3	894,402 3 9
Total, . . .	9,350	207,191 16 8	5,087,106 13 11

TABLE II.—SALES of LANDED PROPERTY (where offers have been accepted).

YEAR.	Number.	Annual Rents.	Purchase Money.
		£ s. d.	£ s. d.
1871, . . .	330	5,316 0 6	96,504 4 8
1872, . . .	248	2,154 2 9	68,977 19 5
1873, . . .	516	11,068 13 2	269,002 6 11
1874, . . .	1,068	15,836 1 9	367,938 15 7
1875, . . .	1,656	48,284 7 7	1,171,074 18 6
Total, . . .	3,818	82,659 5 9	1,973,498 5 1

Orders of Commissioners operating as conveyance, &c. to be liable to same Stamp duty.

35. Every order of the Commissioners operating as a conveyance or mortgage of any property shall be deemed to be a conveyance or mortgage within the meaning of the Acts relating to stamps, and shall be chargeable with stamp duty accordingly.

See 10th section of Act of 1872, *post*, page 46, as to stamp duty on tithe rent-charge merging orders.

For stamp duties on conveyances and mortgages payable pursuant to 33 and 34 Vic. c. 97, see *post*, page 199.

Payment of monies into Bank.

36. All purchase monies, rents, and other monies whatsoever payable to the Commissioners under or by reason of any of the provisions of this Act shall be paid into such bank, and be invested in such manner, as may from time to time be determined by the Commissioners of the Treasury.

Accounts of capital and revenues.

37. The Commissioners appointed under this Act shall prepare in such form, and either annually or for such shorter periods, as the Treasury may direct, accounts of the receipts and expenditure of the capital and of the revenues derived from all property, real and personal, vested in the Commissioners, or of any other funds falling under their control and management under the provisions of this Act; and within three months after the expiration of each year, or other shorter period, to which the accounts relate, the Commissioners shall transmit the same to the Comptroller and Auditor General, to be audited, certified, and reported upon with reference

to the provisions of this Act, and in conformity with the powers and regulations prescribed in the Exchequer and Audit Departments Act, 1866, for the rendering and auditing of appropriation accounts; and the accounts, with the reports of the Comptroller and Auditor General thereon, shall be laid before both Houses of Parliament not later than two months after the date on which they shall have been rendered for audit, if Parliament be then sitting, and if not sitting, then within a week after it shall be next assembled: Provided always, that the expense of such audit shall be included in the incidental expenses hereinbefore mentioned of carrying this Act into execution, and shall be defrayed accordingly.

Section 38.

Expenses of audit.

See Second Report of Public Accounts Committee of the House of Commons of 1875, which defines the respective positions of the Commissioners and the Comptroller and Auditor General as regards accounts. The total cost of audit from 26th of July, 1869, to 31st March, 1875, was £7,824 18s. 5d.

REGIUM DONUM AND COLLEGE OF MAYNOOTH.

38. When the annual parliamentary grant for the expenses of the nonconforming, seceding, and Protestant dissenting ministers in Ireland, commonly called the Regium Donum, and in this Act referred to by that name, is discontinued, the Commissioners shall as soon as may be after such discontinuance ascertain and declare by order the amount of the yearly sum theretofore received thereout by each minister of any Protestant nonconforming congregation in Ireland, or which he would have been entitled to receive if such grant had not been discontinued, and shall pay to each such minister, so long as he lives and is continued in the ministry, by and with the consent of the governing body of the church or religious community to which he may belong, an annuity equal to the yearly amount so ascertained as aforesaid.

Compensation to non-conforming ministers.

The Commissioners shall also on such discontinuance as aforesaid ascertain and declare by order the amount of any yearly sum to which any assistant successor to a minister in such congregation may be prospectively entitled, and shall secure to such successor a deferred life annuity of the same value and payable in the same events as the yearly sum for which it is substituted. The Commissioners shall also ascertain and declare by order what Protestant nonconforming congregations were on the first day of March one thousand eight hundred and sixty-nine fulfilling the conditions necessary for eventually obtaining out of the Regium Donum the payment of yearly sums for their respective ministers, and what would have been in each case the amount of such yearly payment, and the time at which the same would have begun to be payable, and shall as from that time pay to the minister of each such congregation a life annuity, subject to the same conditions as aforesaid, equal to the amount of the yearly payment which he would have become entitled to receive on the fulfilment of the necessary conditions if the grant of the Regium Donum had not been discontinued: Provided always, that no minister placed in a congrega-

Assistant successors of ministers.

Section 39. tion, or becoming assistant successor, for the first time after the passing of this Act shall be entitled to any annual sum by way of compensation (*v*).

(*v*) See decisions (*post*, page 132).

Commu-
tation of
annuities
of non-
conforming
ministers,
&c.

39. Any minister or assistant successor of any Protestant non-conforming congregation, to or for whom any annuity is paid or secured under this Act by reason of the discontinuance of the said grant called the Regium Donum, may apply to the Commissioners to commute his annuity for a capital sum to be paid to him, and the said Commissioners, if satisfied that the annuity of the applicant is not incumbered, or if incumbered that the incumbrancers consent to the commutation, shall cause the then present value of the annuity to be estimated, and shall pay the amount of such estimated value to trustees (*w*), such trustees to be appointed in the case of any such minister or assistant successor as aforesaid by such minister or assistant successor and the General Assembly or synod or presbytery, as the case may be, of the church or religious community to which such minister or assistant successor may belong (*x*).

(*w*) Up to 31st December, 1875, capital sums were paid (including 12 per cent. bonus where payable) amounting to £615,346 14s. 2d. to the several trustees appointed pursuant to this section.

(*x*) See Act 34 and 35 Vic., c. 24, for regulating the management by the trustees of capital sums paid under this section (*post*, page 54).

Repeal of
Maynooth
Acts.

40. On and after the first day of January one thousand eight hundred and seventy-one, the Act of the Irish Parliament of the fortieth year of the reign of His late Majesty King George the Third, chapter eighty-five, except the fourth and fifth sections thereof, the Act of the eighth and ninth years of the reign of Her present Majesty, chapter twenty-five, except the first three sections thereof, and the Act of the twenty-third and twenty-fourth years of the reign of Her said present Majesty, chapter one hundred and four, shall be and the same are hereby repealed, save in respect of any pecuniary and individual interests at present existing against the trustees.

Compensa-
tion on the
cessation of
certain
annual sums.

When the annual sums hereinafter mentioned cease to be paid, compensation shall be made in respect thereof by payment of capital sums as follows, that is to say (*y*) :

- (1.) In respect of the annual sum paid out of the said Regium Donum to the fund for supporting the widows and orphans of ministers of the synod of Ulster, by payment of the capital sum hereinafter mentioned to the Presbyterian Widows Fund Association :
- (2.) In respect of the several annual sums paid out of the Regium Donum to the said association, and also to the trustees of other widows funds of certain Protestant nonconforming bodies respectively, such sums to be ascertained on an average of such number of years as the Commissioners may think fit, by payment of the capital sums hereinafter mentioned to the said association and trustees of the said widows funds respectively :

- (3.) In respect of the several sums paid annually by ministers in receipt of Regium Donum to the said widows funds respectively out of their first year's income derived from the Regium Donum on such average as aforesaid, by payment of the capital sum hereinafter mentioned to the said association and the said trustees respectively :
- (4.) In respect of the annual sum paid out of the Regium Donum to or on account of the clerks of the synod, by payment of the capital sum hereinafter mentioned to trustees to be appointed in that behalf by the moderator of the General Assembly or of the synod or presbytery for whose benefit such annual payment was heretofore made as aforesaid :
- (5.) In respect of the annual sums granted by Parliament for the salaries of the theological professors, and for the incidental expenses of the General Assembly's college at Belfast, by payment of the capital sum hereinafter mentioned to trustees, not exceeding seven in number, consisting of the existing trustees of the said college, and additional trustees to be appointed in that behalf by the said General Assembly of the Presbyterian Church in Ireland, or by the majority of them :
- (6.) In respect of the buildings of the said college, a sum not exceeding fifteen thousand pounds to the said trustees as last aforesaid :
- (7.) In respect of the annual sums granted by Parliament for the salaries of the theological professors of the non-subscribing associations of Presbyterians, by payment of the capital sum hereinafter mentioned to trustees to be appointed in each case by the professors and presidents of such associations :
- (8.) In respect of the annual sum paid during the financial year ending the thirty-first day of March one thousand eight hundred and sixty-nine to the trustees of the College of Maynooth in pursuance of the Act of Parliament in that behalf, by payment of the capital sum hereinafter mentioned to the trustees of the said college.

The capital sum to be paid by the Commissioners in respect of each of the annual sums aforesaid shall be fourteen times the amount of each such annual sum. And provided further, that in

(9) The following compensations have been paid by the Commissioners pursuant to this section, viz.:—

	£	s.	d.
To Widow and Orphan Fund, Synod of Ulster,	5,124	0	0
„ Other Widows' Funds,	19,955	18	3
„ Ministers' payments to Widows' Funds,	18,900	8	2
„ Clerks of the Synod,	2,131	19	4
„ General Assembly's College at Belfast,	39,775	19	2
„ Non-subscribing Associations of Presbyterians,	4,200	0	0
„ College of Maynooth,	872,331	0	6
Total,	£482,419	5	5

Section 41. — case of the retirement or removal from office of the present president or vice-president, or of any of the existing masters or professors, of Maynooth College, on account of age, permanent infirmity, or any cause other than his own wilful default, such president, vice-president, master, or professor, shall be entitled to receive from the trustees by way of retiring allowance an annual sum equal to two-thirds of his actual salary at the time of his retirement or removal.

Remission of debt to trustees of Maynooth. 41. Any sums of money remaining due from the trustees of the said College of Maynooth to the Commissioners of Public Works in Ireland in respect of advances made by the said Commissioners on the security of the sums payable to the said trustees under the sixth section of the said Act of the eighth and ninth years of the reign of Her present Majesty, chapter twenty-five, shall be and the same are hereby released. (z)

(z) The amount of debt remitted by this section, was at the date of the passing of this Act £20,000.

APPEAL.

Persons aggrieved may appeal.

42. Where any person is aggrieved by the value set by the Commissioners on any life interest or other interest in respect of which compensation is awarded to him under this Act, and where any person feels aggrieved by the value set by the Commissioners on any advowson or right of presentation in respect of which he is awarded compensation under this Act, he may, if he think fit, refer such question to arbitration.

[See section 65.]

SUPPLEMENTAL PROVISIONS.

COMPENSATION TO CERTAIN OFFICERS.

Possession to be given up of 24, Upper Merrion-street.

43. The possession of the house No. 24 Upper Merrion-street, in the city of Dublin, now occupied as an office by the said Ecclesiastical Commissioners, and all furniture and fittings therein, and also all books, accounts, deeds, maps, documents, and papers, whatsoever at the date of this Act belonging to the said Ecclesiastical Commissioners, or under their control, or the control of any of their officers, shall immediately after the passing of this Act be delivered up by the person or persons having charge of the same respectively to the Commissioners.

Compensation to Ecclesiastical Commissioners and their officers.

44. There shall be paid to Arthur Edward Gayer and William Charles Quin (two of the said Ecclesiastical Commissioners) the annual sum of one thousand pounds each during their natural lives respectively, and to Robert Franks (their secretary), to George Lefroy (their treasurer), to the solicitor, and to the several other officers and clerks of the said Ecclesiastical Commissioners whose services may not be required by the Commissioners hereby constituted, such annual sums respectively as the said last-men-

tioned Commissioners, with the assent of the Lord Lieutenant, may recommend, and shall be approved of by the Commissioners of the Treasury; and if the services of such officers are required by the Commissioners hereby constituted, such services shall, for all purposes of superannuation, be deemed a continuance of their former services.

Section 45.

See note to 45th section.

45. The Commissioners shall ascertain and by order declare the amount of the fees or other emoluments, received by each vicar-general, official principal, commissary-general, or chancellor, or registrar or joint registrar of any diocese or united dioceses or any peculiar or exempt jurisdiction in Ireland, (a) or by the registrar of any cathedral corporation, or by the auditor appointed under the said Act of the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, chapter fifty-four, on an average of the three years ending the first day of January one thousand eight hundred and sixty-nine, and of which they may be deprived by this Act, and shall, as from the first day of January, one thousand eight hundred and seventy-one, out of any funds for the time being in the hands of the Commissioners under the provisions of this Act, pay to each such vicar-general, official principal, commissary-general, chancellor, or registrar, and auditor respectively during his life an annuity equal to the average amount of his fees and other emoluments ascertained as aforesaid, and shall also pay to each such officer the amount of any fees of which he shall show to the satisfaction of the Commissioners that he has been actually deprived during the interval between the passing of this Act and the first day of January one thousand eight hundred and seventy-one by virtue of the provisions of this Act: Provided always, that in any case where a deputy registrar shall for five years before the passing of this Act have discharged the duty of the office of registrar such deputy registrar shall receive from the Commissioners such sum by way of compensation for the loss of his office as the Commissioners shall think right, and such sum shall be deducted from the amount payable under this Act to the principal registrar; provided further, that it shall be lawful for such Commissioners to grant to all managing and other clerks who have been continuously employed in the office of the said provincial or diocesan registry for five years or upwards immediately before the passing of this Act, and who may sustain any loss of emolument by reason of the passing of the same, such reasonable allowance as the said Commissioners may deem just and proper.

Compensation to vicars-general and other officers by annuities equal to their average income for the three years ending 1st January, 1869.

Annuities under this and the preceding section can be commuted pursuant to 4th section of Act of 1872, *post*, page 43.

(a) The Commissioners having decided that the foregoing section did not empower them to award compensation to the officers of the Court of Faculties, the following provision was made for the same in the Marriage Act of 1870 (33 and 34 Vic., cap. 110, s. 30).

"Whereas it was intended by the forty-fifth section of the Irish Church Act, 1869, "to provide compensation for all loss of emoluments connected with ecclesiastical "jurisdiction, whether arising from suits or from marriage licences, or fees for ad-

Section 46. "mission of public notaries; and whereas doubts have arisen as to whether the officers of the Court of Faculties of the Archbishop of Armagh are included in the said section; be it therefore enacted that 'the Commissioners of Church Temporalities in Ireland' shall be at liberty, if it appear to them just, to make compensation to the officers of the said Court of Faculties, out of the same funds and within the same limit as to amount, as are by said Act provided in respect of officers of the "diocesan courts."

The only claimant awarded compensation under this last mentioned Act was Mr. Maurice Keatinge, the Registrar of the Court of Faculties at Armagh.

As to
benefices of
Kilcullen,
Kildare,
Saint Mary,
Saint
Thomas, and
Saint
George,
Dublin.

46. The Commissioners shall ascertain whether the chancellor and prebendaries of Christ Church, Dublin, or any other ecclesiastical person, are or are not entitled to any right of succession in the benefices of Kilcullen, Kildare, Saint Mary, Saint Thomas, and Saint George, Dublin, or any other benefice or benefices, and, if entitled, shall award to them respectively such sum in compensation for the same as shall seem to them just. (b)

(b) £23,715 5s. 3d. has been paid as compensation under this section to the several persons declared entitled thereto. (See decisions, *post*, page 134.)

DELIVERY UP OF DOCUMENTS.

Delivery up
of books by
registrars.

47. All and singular the records, books, accounts, deeds, maps, documents, and papers whatsoever which in anywise relate to or concern any of the property or premises vested or to become vested in the Commissioners under any of the provisions of this Act shall, within three months next after the said first day of January one thousand eight hundred and seventy-one, be delivered up to the Commissioners by the respective registrars of the several provincial and diocesan or united diocesan or other registries in Ireland, or other the officers then having the custody or possession of the same respectively, on getting receipts therefor from the said Commissioners: Provided always, that the said Commissioners shall preserve the said books, accounts, deeds, maps, documents, and papers, and shall permit reasonable access to the same, and shall hand over to the said representative body such of the said books, accounts, deeds, maps, documents, and papers, if any, as may exclusively relate to property to which the said representative body shall have become entitled, and certified copies of such of them as may relate to the said property, jointly with other property, and at the close of the commission shall lodge the residue thereof in the Public Record Office of Ireland. (c)

(c) The Commissioners have arranged that the records, deeds, maps, or other documents delivered up to them by the several provincial and diocesan registrars, may be inspected by the public on a requisition being lodged in their office, on payment of the same fees as were hitherto charged in the several provincial and diocesan registries, pursuant to the Rules and Orders approved by the Privy Council under ("The Ecclesiastical Courts and Registries Act, 1864") 27 & 28 Vic. cap. 54.

[See Public Records (Ireland) Act, 1867, Amendment Act 1875, as to "*Parochial Records*," *post*, page 80.]

DEALINGS WITH PROPERTY.

Section 48.

48. It shall not be lawful for the Commissioners to expend any money whatever in or about the building, rebuilding, or enlarging of any cathedral or other church, or any chapel, see house, glebe house, or other building belonging to the said church or to any person holding office therein or connected therewith, or in enlarging or improving any churchyard or graveyard, nor to grant or advance any money for the purposes aforesaid, or any of them, except such sums as the Ecclesiastical Commissioners of Ireland shall before the first of March last have engaged or agreed to expend for such purposes, or such as in the opinion of the Commissioners they may since that date in due and ordinary course of business have engaged or agreed to expend for such purposes. (d)

Commissioners not to expend monies in building.

(d) Under this section there has been expended for Building and enlarging Churches, the sum of £92,334 19s. 6d.

49. It shall not be lawful for the Commissioners, after the first day of January one thousand eight hundred and seventy-one, to expend any money whatever upon any such buildings, churchyard, or graveyard as aforesaid, whether for repairs or otherwise, nor in payment of salaries of clerks or sextons of any parish, chapelry, or chapel of ease who may be appointed after the passing of this Act, or in providing any church or chapel with fuel, lighting, or things necessary for the celebration of Divine service, nor to grant or advance any money for the purposes aforesaid, or any of them, except such sums as the Ecclesiastical Commissioners shall before the first of March last have engaged or agreed to expend for such purposes, or such as in the opinion of the Commissioners they may since that date in due and ordinary course of business have engaged or agreed to expend for such purposes: Provided that in the meantime, and until the said first day of January one thousand eight hundred and seventy-one, it shall be lawful for the Commissioners to expend such sums of money as they may ascertain and by order declare to be necessary for keeping any such buildings as aforesaid in substantial repair and preservation, or for providing any church or chapel with fuel, lighting, or other things requisite for the decent performance of Divine worship as heretofore in such church or chapel. (e)

Commissioners not to expend monies in repairs.

	£	s.	d.
(e) Under this section there has been expended as under, viz. :—			
For Repair of Churches, the sum of	70,212	10	6
For Church Requisites; Salaries of Clerks, Sextons, &c., the sum of	64,989	4	5
Total,	£135,201	14	11

50. Nothing herein contained shall affect the right of any archbishop, bishop, or person holding any benefice or cathedral preferment in the said church, and whose annuity has not been commuted in pursuance of this Act, to receive the amount of any building charge to which such archbishop, bishop, or other person

Payment of building charge to representatives of ecclesiastical persons

Section 51

would have been entitled if this Act had not passed ; and in the event of the circumstances occurring under which such person or his representatives would have been entitled, if this Act had not passed to receive such charge, the Commissioners shall pay the same to such person or his representatives. (f)

Dilapidations.

(f) The Commissioners have decided that no deduction can be made from payments under this section in respect of dilapidations, except in those cases where a claim for commutation (including value of glebe-house) shall have been made by an ecclesiastical person, previous to his death, and acted on by them.

Regulations as to payment of commutation and annuity.

51. Every annuity payable by the Commissioners under this Act shall be deemed to accrue due from day to day, and shall be paid at such intervals not exceeding in any case six months, and in such manner, as the Commissioners may judge expedient.

The Commissioners may deduct from any annuity payable by them any sums they may have been required to pay to any incumbrancer in respect of any charge which would have been payable out of the property for which such annuity is substituted if no substitution had taken place, subject to the like provision thereout for the discharge of the spiritual duties of the see or benefice as the income thereof would have been liable to if this Act had not been passed.

All commutation monies paid under this Act in lieu of annuities shall be calculated at the rate of three pounds ten shillings per centum per annum.

Power of Commissioners to accept mortgages as security for a portion of purchase money.

52. Where the Commissioners sell any land or interest in land in pursuance of this Act, the Commissioners may credit the purchaser with such part of the purchase money, not exceeding three fourth parts, as they think proper, on having payment of the same, with interest at the rate of four per centum per annum, secured to the satisfaction of the Commissioners ; and any such purchase money may be made payable by half-yearly instalments, not exceeding sixty-four in number.

See instructions and examples, *post*, page 195.

Power to pay by instalments.

53. Where the Commissioners are authorized or required under this Act to pay any capital sum in respect of any commuted annuity, they may, if they think fit, instead of paying such sum at once, elect to pay the same by half-yearly instalments, not exceeding eight in number, together with interest at the rate of three and a half pounds per cent. on any part of the capital for the time being remaining unpaid.

Where the representative body of the said church is liable to pay any capital sum to the Commissioners, such capital sum may be paid by twenty-two yearly instalments, with interest at the rate of three and a half per cent. on the amount of the purchase money remaining unpaid, to be secured in such manner as the Commissioners think expedient.

Sales of lands, &c. may be made in Landed

54. If in any case in which the Commissioners are by this Act authorized or directed to sell any property it appears to them to be expedient that the same should be sold, or the sale thereof

carried out, in the Landed Estates Court in Ireland, it shall be lawful for the Commissioners so to declare by order, and to direct that such sale shall be effected or carried out by the said court, and thereupon such sale shall be effected or carried out in and by the said court accordingly; but any right of pre-emption hereinbefore declared shall be as far as possible preserved in the said court; and the conveyance of the premises so to be sold, or the sale of which may be carried out, under any such order, shall be executed by a judge of the said court, and shall have the same force and operation in all respects as if the same were so executed in a matter in which an absolute order for sale of the said premises had been duly made by the said court on a petition filed therein for that purpose.

Section 55.
Estates
Court.

[See section 34.]

55. The vesting of any property in the Commissioners under this Act shall not preclude any person entitled from recovering any arrears of rent, interest, or other sums payable at the time of such vesting, out of or in respect of such property, and such arrears, interest, or other sum may be recovered by such person in the same manner in all respects as if such vesting had not taken place; and where any person is deprived of any rent, interest, or other sum payable out of or in respect of property by reason of such property vesting in the Commissioners under this Act, the Commissioners, after deducting any rates or charges payable thereout, shall pay to such person a proportionate part of such rents, interest, and other sums in respect of the time that may have intervened between the last day at which such person was entitled to receive such rents, interest, or sums and the time of the vesting of the property in the Commissioners. (g)

Saving claim
of arrears of
rent, &c.

(g) See decision, *in re Tomlinson v. Barnwell*, *post*, page 147; also *in re Representatives of Bishop Verschoyle*, *post*, page 131.

56. Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceeding under this Act, is an infant, idiot, or lunatic, the guardian or committee of the estate respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such person respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act: where there is no guardian or committee of the estate of any such person as aforesaid, being infant, idiot, or lunatic, or where any person the committee of whose estates if he were idiot or lunatic would be authorized to act for and represent such person under this part of this Act is of unsound mind or incapable of managing his affairs, but has not been found idiot or lunatic under an inquisition, it shall be lawful for the Court of Chancery to appoint a guardian of such person for the purpose of any proceedings under this Act, and from time to time to change such guardian; and where the court sees fit it may appoint a

Provisions
for other
persons
under dis-
ability.

Section 57. person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time remove or change such next friend.

Provisions as to incapacitated owners.

57. If in any case any such adwoson or building charge as is mentioned in this Act is so circumstanced as that there is not in the opinion of the Commissioners any person competent to give an effectual discharge for the compensation or amount payable in respect thereof, or if the person or any of the persons claiming to be entitled thereto do not deduce his or their title to the satisfaction of the Commissioners, or if any doubt or other difficulty whatsoever arise in relation to the premises, it shall be lawful for the Commissioners so to declare by order, and thereupon the compensation or amount so payable by the Commissioners shall be paid into the Bank of Ireland, ex parte the Commissioners, to be dealt with in the same manner in which purchase money payable to parties under disability is paid into the Bank of Ireland and dealt with in pursuance of the Land Clauses Consolidation Act, 1845; (h) and in the construction of that Act this Act shall for the purposes of this section be deemed to be the special Act.

(h) See clauses of this Act, referred to *post*, page 49.

Power to officers of Commissioners to enter upon land.

58. Any surveyor or other person employed by the Commissioners for the purpose of ascertaining the value of any land or buildings which, or the reversion of which, may be vested in the Commissioners under this Act, may enter upon such land or buildings at all reasonable times during the day, upon making full compensation for any damage he may do for the purpose of making a valuation of such land or buildings, or ascertaining the several matters and things necessary to be ascertained by the Commissioners for the purpose of carrying this Act into effect.

POWER OF THE COMMISSIONERS TO RAISE MONEY.

Commissioners to raise money for the purposes of this Act.

59. The Commissioners may, with the consent of the Commissioners of Her Majesty's Treasury, from time to time raise such sums of money as they may think expedient for the purpose of carrying into effect any of the provisions of this Act, and the Commissioners may give as security for the repayment of any monies so raised, and of interest thereon, the whole or any part of the property vested in them by this Act.

Power to Treasury to advance money to Commissioners.

60. The Commissioners for the Reduction of the National Debt, if they think fit, with the approval of the Commissioners of Her Majesty's Treasury, may from time to time out of any money in their hands under the Act of the session of the twenty-sixth and twenty-seventh years of Her Majesty (chapter eighty-seven), "to consolidate and amend the laws relating to savings banks," or under the Act of the session of the twenty-fourth and twenty-fifth years of Her Majesty (chapter fourteen), "to grant additional facilities for depositing small savings at interest with the security of the Government for due repayment thereof," or under both

those Acts, advance to the Commissioners, with such guarantee as is by this Act authorized (but not otherwise), the whole or any part or parts of the money which by this Act the Commissioners are authorized to raise. Section 61.

The total sum borrowed from the Commissioners for the reduction of the National Debt, was £9,000,000 which is being repaid. The amount of debt in January, 1876, being £8,400,000.

61. It shall be lawful for the Commissioners of Her Majesty's Treasury, if they think fit, from time to time to guarantee the payment of the principal and interest of all or any part of any money for the time being raised by the Commissioners in pursuance of this Act. Power for Treasury to guarantee advance to Commissioners.

62. Any security given by the Commissioners in pursuance of this Act shall be in such form, and may contain such powers of sale or otherwise, as the Commissioners of Her Majesty's Treasury may approve, and there shall be certified thereon, in such form as the said Commissioners of Her Majesty's Treasury may direct, the guarantee to be given by the last-mentioned Commissioners in pursuance of this Act. Form of security and guarantee.

63. For the purpose of giving effect to the guarantee aforesaid, it shall be lawful for the Commissioners of Her Majesty's Treasury, from time to time, in aid of any money applicable under this Act for payment of principal and interest for the time being accrued due in respect of any monies raised by the Commissioners in pursuance of this Act, to cause to be issued out of the Consolidated Fund of the United Kingdom, or the growing produce thereof, such sums as may be necessary for payment of the same principal and interest, or of any part thereof respectively. Guarantee to be based on Consolidated Fund.

64. In case any money is at any time issued out of the said Consolidated Fund in pursuance of the guarantee aforesaid, the Commissioners of Her Majesty's Treasury shall cause the same to be repaid to the said Consolidated Fund out of the funds in the hands of the Commissioners. Repayment to Consolidated Fund.

ARBITRATION.

65. Arbitrations under this Act shall be conducted in manner directed by "The Railway Clauses Consolidation Act, 1845," and for this purpose the clauses of the said Act (i) with respect to the settlement of disputes by arbitration shall be incorporated herewith subject to the qualification that, in cases where the Board of Trade is thereby authorized to appoint an umpire, the Commissioners of Public Works in Ireland shall have power to appoint the same. Rules as to arbitration.

(i) See clauses referred to, *post*, page 52.

TEMPORARY PROVISIONS.

66. If any vacancy occur in any archbishopric, bishopric, benefice, or cathedral preferment in or connected with the said Church between the date of the passing of this Act and the first day of January one thousand eight hundred and seventy-one, the following enactments shall be made with respect to such vacancy: Regulation as to vacancies.

Section 66.

- (1.) All property, real and personal, belonging or in anywise appertaining to or appropriated to the use of any such vacant archbishopric, bishopric, benefice, or cathedral preferment, or belonging or in anywise appertaining to or appropriated to the use of any person as holding any such archbishopric, bishopric, benefice, or cathedral preferment, shall vest in the Commissioners, subject to any quitrents, head rents, leases, and other tenancies, charges, and incumbrances affecting the same :
- (2.) Her Majesty may in the case of a vacant archbishopric, on the requisition of any three bishops of the province, and in the case of a bishop on the requisition of the archbishop of the province in which such bishopric is situate, or of any three bishops of the same province, fill up the vacancy ; but no archbishop or bishop so appointed shall be summoned to or be qualified to sit in the House of Lords, and he shall be subject to the provisions herein-after mentioned :
- (3.) In the case of any vacant benefice or cathedral preferment, such vacancy may be filled up by the same person or persons who would have been qualified to fill up the same if this Act had not passed, but the person so appointed shall be subject to the provisions herein-after mentioned :
- (4.) Every person appointed to fill any vacancy in pursuance of this section shall be subject to all the provisions of this Act, and he shall not be entitled to any compensation in respect of any annuity or other interest of which he may be deprived by virtue of this Act ; and no person appointed to fill any vacancy in pursuance of this section shall be liable to pay any *ad valorem* duty or tax to the Crown, or any *ad valorem* fees to the ecclesiastical registries, neither shall he be bound to pay any building charge upon the preferment or benefice in which the vacancy shall have occurred :

Provided always, that if the owner of any archbishopric, bishopric, benefice, or cathedral preferments, or any curate, be appointed to fill a vacancy in any other archbishopric, bishopric, benefice, or other cathedral preferments, such person, notwithstanding such appointment shall still have and retain all such life estate or interest and all the rights and privileges to which he would have been entitled if he had not accepted such appointment, and in the meantime he shall pay over the net income of the archbishopric, bishopric, benefice, or cathedral preferment held by him at the time of such appointment to the representative body of the said Church, who shall thereout make such provision for the discharge of the spiritual duties in the said last-mentioned archbishopric, bishopric, benefice, or cathedral preferment, or curacy, as, in the case of an archbishopric or bishopric, shall be directed in writing

by the person or persons authorized thereto by the representative body of the said Church, or, in the case of a benefice or cathedral preferment, by the bishop of the diocese for the time being, or, in case of a curate whose salary is deducted under this Act, by the incumbent from whose income such salary has been deducted :

Section 67.

- (5.) The Commissioners may pay to any person appointed to fill a vacancy in pursuance of this section, during such time as he may occupy his office between the date of the passing of this Act and the said first January one thousand eight hundred and seventy-one, a sum equal, as nearly as the Commissioners can determine, to the net annual income of the archbishopric, bishopric, benefice, or cathedral preferment to which he is appointed, or a proportionate part thereof, according as he holds his office for the whole time or a portion only of such time.

67. In case of any commutation as herein-before provided it shall be lawful for the Commissioners, at the desire of the holder of any archbishopric, bishopric, benefice, or cathedral preferment, to exclude from such commutation any house or land reserved to such holder by this Act which shall be in his actual occupation ; but in such case the building charges, if any, to which he shall be entitled shall not become payable under section twenty-four of this Act, but payable at the termination of his life interest under section fifty.

As to exclusion of house, &c in cases of commutation.

Payment of building charges.

(j) In the case of ecclesiastical persons who applied to commute their annuities and life interests, the Commissioners refused to allow them to commute for the value of glebe houses (for the purpose of obtaining payment of building charges thereon under 24th section), unless they also commuted for the value of the glebe lands in their own occupation.

SURPLUS.

68. And whereas it is further expedient that the proceeds of the said property should be appropriated mainly to the relief of unavoidable calamity and suffering, yet not so as to cancel or impair the obligations now attached to property under the Acts for the relief of the poor : Be it further enacted, that the said proceeds shall be so applied accordingly in the manner Parliament shall hereafter direct. (k)

Ultimate trust of surplus.

(k) See preamble of Act. The report of the Commissioners presented to Parliament in 1875 estimates the amount of the probable surplus at £5,180,000.

SAVING CLAUSES.

69. In all enactments, deeds, and other documents in which mention is made of the United Church of England and Ireland the enactments and provisions relating thereto shall be read distributively in respect of the Church of England and the Church of Ireland, but, as to the last-mentioned Church, subject to the provisions of this Act.

Provision as to Acts relating to United Church of England and Ireland.

70. Nothing in this Act contained shall affect the patronage or right of presentation to any proprietary or district parochial church or endowed chapel of ease which has been endowed out of private

Saving rights as to proprietary chapels and

Section 71
chapels of
ease.

funds, or affect the property in any such church or chapel, or the property held for the purposes of or appropriated to the use of the same, or affect the continuance of the trust relating thereto as originally constituted. (L)

(L) See decision as to private endowments, *post*, page 88.

[See 29th section, which grants £500,000 to the Representative Church Body for all other endowments, which became vested in Commissioners. See also 18th section.]

Saving of
Act of
39 & 40 G. III.
c. 67, &c.

71. Nothing herein contained shall affect the Act of the session of the thirty-ninth and fortieth years of the reign of King George the Third, chapter sixty-seven, and intituled "An Act for the Union of Great Britain and Ireland," or an Act of the Irish Parliament passed in the fortieth year of the reign of King George the Third, and also intituled "An Act for the Union of Great Britain and Ireland," or anything done thereby, except in so far as relates to the union of the Churches of England and Ireland, and except as expressly herein-before provided.

CONSTRUCTION OF ACT.

Interpreta-
tion of terms.

72. In the construction and for the purposes of this Act the following words and expressions shall have the meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant thereto; (that is to say,)

"Lord Lieu-
tenant:"

"Lord Lieutenant" shall mean and include the lords justices or other chief governors or governor of Ireland:

"Lease:"

"Lease" shall include an agreement for a lease, or other contract of tenancy, and the estate or interest created or agreed to be created thereby:

"Ecclesiastical per-
son:"

"Ecclesiastical person" shall mean and include any archbishop or bishop, or person holding any benefice or cathedral preferment as herein-after defined:

"Church:"

"Church" shall include a public chapel or chapel of ease, also a cathedral or collegiate church:

"Benefice:"

"Benefice" shall mean and include every parish, rectory, vicarage, perpetual curacy, donative, chantry, endowed public chapel, parochial chapelry, and chapelry or district annexed, or reputed to be annexed, to any church or chapel, and whether the same be or be not within any exempt or peculiar jurisdiction:

"Glebe
house:"

"Glebe house" shall mean a house of residence belonging to any benefice as herein-before defined:

"Cathedral
preferment:"

"Cathedral preferment" shall mean and include every deanery, archdeaconry, prebend, canonry, chaplaincy, office of minor canon, chantry, office of priest vicar, vicar choral or choirman, having any prebend or endowment belonging thereto, or belonging to any body corporate consisting of persons holding any such office, and also every precentorship, treasurer'ship, sub-deanery, chancellorship of the church, and other dignity and office in any cathedral or collegiate church:

"Cathedral corporation" shall mean any dean and chapter or chapter, and also any corporation of minor canons or vicars and choirmen, or vicars choral, or any other subordinate corporation of or belonging to or connected with any cathedral or collegiate church in Ireland : Section 1.
"Cathedral corporation:"

"Curate" shall include residentiary preacher or reader : "Curate:"

"Property" shall include things in action and rights of action : "Property:"

"Jurisdiction" shall mean legal and coercive power, and shall not extend to or include any power or authority which may be exercised in a voluntary religious association upon the footing of mutual contract or agreement. "Jurisdiction:"

II.—"THE IRISH CHURCH ACT AMENDMENT ACT (No. 1), 1872.

35 & 36 VICTORIA, CAP. 13.

An Act to amend The Irish Church Act, 1869, so far as respects a Vacancy in the office of Commissioner of Church Temporalities in Ireland. [27th June 1872.]

WHEREAS by The Irish Church Act, 1869, in this Act referred to as the principal Act, it is amongst other things enacted that the following persons, that is to say, Viscount Monck, Right Honorable James Anthony Lawson, one of the justices of the Court of Common Pleas in Ireland, and George Alexander Hamilton, Esquire, shall be constituted Commissioners under the said Act, and shall be a body corporate and be styled the Commissioners of Church Temporalities in Ireland, and it is by the said Act further provided that any power or act by such Act vested in or authorized to be done by the said Commissioners may be exercised or done by any one of them, with the qualification that any person aggrieved by any order of one Commissioner may require his case to be heard by the three Commissioners : 32 & 33 Vict.
c. 42.

And whereas George Alexander Hamilton, Esquire, one of the Commissioners appointed by the said Act, died on the Seventeenth day of September one thousand eight hundred and seventy-one :

And whereas it is expedient that the vacancy so created in the office of Commissioner of Church Temporalities in Ireland should not be filled up, and that provisions such as are in this Act contained should be made for the execution of the said Act by two Commissioners :

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 :

1. No person shall be appointed to fill the vacancy occasioned by the death of the said George Alexander Hamilton, and subject as herein-after mentioned as to a re-hearing, and without prejudice Vacancy in
office of
third com-
missioner

Section 2. not to be filled up. to any matter or thing which has been done previously to the passing of this Act, the principal Act shall be construed as if two persons only, that is to say, the said Viscount Monck and the said James Anthony Lawson, had been constituted Commissioners of Church Temporalities in Ireland.

Appeals to be heard by two commissioners and a judge. 2. So much of section four of The Irish Church Act, 1869, as enacts that any person aggrieved by any order of one Commissioner may require his case to be heard by the three Commissioners is hereby repealed, and in lieu thereof be it enacted that any person aggrieved by any order of one Commissioner may require his case to be heard by a tribunal consisting of both the Commissioners for the time being of Church Temporalities in Ireland and any member of Her Majesty's Most Honorable Privy Council in Ireland holding or having held any judicial office, who may from time to time be appointed by either general or special order under the hand of the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being; and the tribunal constituted in pursuance of this section shall have the same powers as the three Commissioners would have had under the principal Act.

Appointment of Master of Rolls. The only appointment made under this section was that of The Right Honorable Edward Sullivan, Master of the Rolls, who was appointed a member of the tribunal hereby constituted on the 28th day of October, 1872, by the Warrant of (see Warrant, *post*, page 168), His Excellency Earl Spencer, the then Lord Lieutenant of Ireland.

Short title. Construction of Act. 3. This Act may be cited for all purposes as The Irish Church Amendment Act, 1872; and the principal Act, as amended by this Act, and this Act shall be construed as one Act.

III.—“THE IRISH CHURCH ACT, 1869, AMENDMENT ACT (No. 2), 1872.”

35 & 36 VICTORIA, CAP. 90.

An Act to amend “The Irish Church Act, 1869.”

[10th August, 1872.]

Whereas it is expedient to amend the Irish Church Act, 1869 :

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 :

Short title. 1. This Act may be cited as “The Irish Church Act, 1869, Amendment Act, 1872.”

Interpretation. 2. In this Act words and expressions to which by the Irish Church Act, 1869, meanings have been assigned shall have the same meanings respectively.

The term “principal Act” shall mean the Irish Church Act, 1869.

Extension of section 16 of Irish 3. The provisions of section sixteen of the principal Act, authorising the Commissioners, with the consent of the Church

body, to cause the value of the life annuity of any clerk, sexton, or officer of the said Church to be estimated and paid to such annuitant, or to such annuitant and the Church body in such proportions as they shall agree, shall be deemed to extend and shall extend and authorise the Commissioners, with the consent of the said Church body, to cause the present value of the annuity payable to each schoolmaster of any diocesan or district school in Ireland, as ascertained and declared by order of the Commissioners under the provisions of the said section, to be estimated, and to pay the same to such schoolmaster or to such schoolmaster and Church body in such proportions as they shall agree.

Section 4.
Church Act,
1869, to the
commutation
of annuities
payable to
diocesan
school-
masters.

The provisions of the said section of the principal Act shall be construed as if the first day of January one thousand eight hundred and seventy-four were substituted for the first day of January one thousand eight hundred and seventy-two in the said section.

4. The Commissioners may estimate the value of any annuity declared by order pursuant to the provisions of the forty-fourth and forty-fifth sections of the principal Act, and may pay such estimated value to the person entitled to such annuity in satisfaction of the same, if such person shall be willing to accept it and they shall consider it expedient so to do.

Power to
commute
annuities
payable
under sects.
44 and 45
of Irish
Church Act,
1869.

For table for commutation of life interests, see *post*, page 164.

5. Whenever a glebe house shall be purchased by the representative body of the said Church, any moneys which shall have been received in respect of dilapidations of such house from the incumbent by the Commissioners shall be paid over to such body for the repair of the same.

Payment of
moneys re-
ceived for
dilapidations
to Church
body in
certain cases.

See 24th section of principal Act, *ante*, page 15.

6. Whereas a statement under the seal of the Commissioners of the amounts of the annual tithe rentcharges, which accrued due in respect of each benefice, dignity, or ecclesiastical corporation in Ireland on the first day of November one thousand eight hundred and seventy-one, and of the owners chargeable therewith, has been deposited in the Record Department of the said Commissioners, and it is expedient that the half-yearly payments of tithe rentcharge to be made from time to time by such owners should be definitely fixed and ascertained: Be it therefore enacted that,—

Amount of
tithe rent-
charges to
be fixed.

- (1.) The said statement (except as herein-after provided) shall be deemed to be and shall be conclusive evidence of the amount of tithe rentcharge chargeable upon the lands (in respect of each such benefice, dignity, or ecclesiastical corporation) in respect of which the owners set forth in such statement have paid the same, and the amounts therein set forth shall from time to time be paid and payable, and such statement shall, in relation to such amounts as aforesaid, be binding upon the persons liable to the payment of the same; provided always, that it shall be lawful for any owner whose name is set forth in such

Section 6.

statement as liable to rentcharge, or for the legal representative of such owner, to lodge with the Commissioners an objection in writing to the liability so set forth, and the Commissioners shall have full power to make an order amending such statement as shall to them seem fit, having regard to the facts in each case without reference to any defects or technical difficulties in the original applotments of tithe composition.

Previous to the passing of this Act, all proceedings for the recovery of arrears of tithe rent-charge were taken under the statute 1 & 2 Victoria, c. 109,* entitled "An Act to abolish Compositions for Tithes in Ireland, and to substitute Rent-charges in lieu thereof," which received the Royal assent on the 15th August, 1838.

Recovery of
tithe rent-
charge
by legal
proceedings.

The annual rent-charges created by this statute were equal in amount to three-fourths of the tithe composition at that time in existence, and were made payable by two equal instalments, on the 1st day of May and the 1st day of November in each year, by the party having the first estate of inheritance, or other estate defined by the Act, as equivalent to a perpetual estate or interest in the lands, and derived from which there shall be no other like estate or interest. This estate of inheritance may be an estate in tail, or an estate in fee. The equivalent perpetual estate or interest may be either an interest derived under a lease with covenant for perpetual renewal, or a term of years, of which at least a hundred were unexpired in 1838; or an estate held directly under any ecclesiastical person or corporation, popularly known as a "bishop's lease." (See 33rd section of Irish Church Act, 1869, *ante*, page 24, which provides for the purchase of these leases). In most of these instances the persons having an existing limited interest, as for life, &c., in the "perpetual estate," represented the inheritance during the continuance of their interest, and were liable to the payment of the rent-charge.

It is enacted by the 27th section of the statute above cited, "That the said rent-charges shall have priority over all other charges, liens, mortgages, and incumbrances whatsoever affecting the lands chargeable therewith, and shall and may be recovered by the ways and means hereinafter mentioned (that is to say), by Bill in Equity. Action of Debt, or on the case, or if not exceeding Twenty Pounds by Civil Bill in the Court of the Assistant Barrister, or Chairman of the Sessions of the County wherein the lands charged therewith may be situate, or by distress, subject to the provisions herein-after contained."

Tithe rent-charge limited in amount to an arrear of six years† has been in all cases recoverable from the person liable under the foregoing enactment.

(2.) The Commissioners shall lodge in the said Record Department, on or before the thirty-first day of March in each year, a further statement of any tithe rentcharge which may have become payable to them in the preceding year ending the thirty-first December under section thirty-three of the principal Act, or otherwise, and the provisions of this section shall apply to such statements and tithe rentcharge.

(3.) It shall not be lawful for the Commissioners nor for the persons liable to tithe rentcharge to take any proceedings under section thirty-two of the Act of the session of the first and second years of Her present Majesty chapter one hundred and nine, to vary the rentcharges with reference to the average price of corn, and the said section is, and all other provisions for such variation are hereby repealed so far as relates to all tithe rentcharge vested in the Commissioners: Provided, however, that in any case

* The anterior statutes affecting tithes were 4 Geo. IV., c. 99, 2 & 3 Will. IV., c. 119, and 3 & 4 Will. IV., c. 100.

† Increased to Forty Pounds by provisions of Civil Bill Act.

‡ Ecclesiastical Commissioners v. Lord Sligo, 5 I. C. R., 46; 2 & 3 Vic., c. 27, s. 42.

where proceedings shall for such purpose have been commenced before the passing of this Act, the same shall not be affected by this provision, and may be continued, and such order as may be made thereon shall be valid in all respects as if this Act had not been passed.

Section 7.

- (4.) It shall and may be lawful for any owner or his legal representatives, at any time after the passing of this Act, upon a division of the lands held by him or them, either by sale or otherwise (except by lease or demise at rack rent), to make an application in writing to the Commissioners signifying the desire of such applicant that the tithe rentcharges, payable half-yearly and chargeable on such lands by said statement, or the annual rentcharges substituted for them under section thirty-two of the principal Act, or section seven of this Act, then charged or chargeable on such lands by the merging order issued by the Commissioners, pursuant to the said section, shall be divided and apportioned upon parts of such lands, or shall be charged upon certain of such lands exempting the residue from any liability in respect of the said rentcharge, and thereupon in each and every such case the said Commissioners shall and they are hereby authorized and required, by order, to divide or apportion the whole or any part of the said tithe rentcharges, or rentcharges in lieu thereof, as aforesaid, in such manner and proportions as by such application may be required, regard being had to the security of the several parts or proportions of such rentcharges, and after such apportionment the tithe or other rentcharges so apportioned shall be charged and payable in such parts and proportions, and chargeable only upon such proportions of the said lands as shall be so declared by the Commissioners' order to be liable to the payment thereof respectively, and said original merging order and all apportionment orders under seal of the Commissioners, shall be deemed and shall be conclusive evidence of the liability to the said rentcharge of the land set forth in said orders respectively.

7. The Commissioners may at any time after the passing of this Act sell any rentcharge in lieu of tithes vested in them under the principal Act to the owner of the land charged therewith, in consideration of a sum equal to twenty-two and a half times the amount of such rentcharge, less such sum in the pound as such owner shall be ascertained by the Commissioners to have been on an average of five years preceding the passing of the said Act entitled to deduct for poor rates from the tithe rentcharge payable by him; and upon any such sale being so made, the Commissioners shall by order declare the rentcharge to be merged in the land out of which it issued, and the same shall merge and be extinguished accordingly.

Sale of tithe
rentcharge
to owners of
land charged
therewith.

Section 8.

Upon the application of any owner so purchasing, the Commissioners may by order declare his purchase money to be payable by instalments, and the land out of which such rentcharge issued to be accordingly charged as from a day to be mentioned in such order for fifty-two years thence next ensuing with an annual sum calculated at the rate of four pounds nine shillings per centum on the purchase money, or for such less number of years as may be agreed upon at an equivalent annual sum, so as to discharge the principal and interest in such less number of years. The annual sum charged by such order shall have priority over all charges and incumbrances, except quit or crown rents, and shall be payable by the same persons, and be recoverable in the same manner, and be subject to the same charges, if any, as the rentcharge in lieu of tithes heretofore payable out of the same lands.

“Owner” for the purposes of this and the next preceding section shall mean the person for the time being liable to pay rentcharge in lieu of tithes under the provisions of the Act of the first and second years of the reign of Her present Majesty, chapter one hundred and nine.

The provisions of this section shall be deemed to be and shall be in substitution of the provisions of section thirty-two of the principal Act, and, where the Commissioners have, under the provisions of the said section thirty-two, made any sale to any owner, they may make such allowance to such owner or to his legal representatives as will place such owner or such representative in a position similar to that in which he would have been placed had the provisions of this section been in force at the time of such sale and such sale had been made thereunder.

See note to section 32 of Principal Act, *ante*, page 23.

Purchase of
surrender or
assignment
of subsisting
lease of tithe
rentcharge.

8. The Commissioners may, when purchasing the surrender or assignment of any subsisting lease of rentcharge in lieu of tithes made by an ecclesiastical person or corporation, where such lease has, previous to the passing of the principal Act, been renewable by custom, treat the same as a renewable lease for the purpose of estimating the value and fixing the purchase money thereof.

See section 33 of Principal Act, *ante*, page 24.

Value of
lease of rent-
charge to be
settled by
arbitration
in certain
cases.

9. Where any person, being a tenant of rentcharge in lieu of tithes by virtue of a lease heretofore customarily renewable, made by an ecclesiastical person or corporation, feels aggrieved by the value set by the Commissioners on such lease, or on his interest therein, he may, if he think fit, refer such question to arbitration in manner prescribed by the principal Act.

Duty on sale
of tithe rent-
charge to be
paid by Com-
missioners.

10. The amount of duty payable upon any order made by the Commissioners upon the sale of tithe rentcharge shall be paid by the Commissioners out of any funds at their disposal.

See 35th section of Principal Act, *ante*, page 26.

Deduction in
respect of

11. Where the repayment of any principal sum, together with interest thereon, is payable to the Commissioners by annual instal-

ments, it shall be lawful for the Commissioners to make an allowance in respect of income tax on such part of such instalments as are payable in respect of interest according to the scale in the schedule to this Act annexed.

Section 12.
income tax
in certain
cases.

12. The immediate or inferior tenants of lands, tenements, and hereditaments held under leases from ecclesiastical corporations aggregate in Ireland, dissolved by the principal Act, where such leases were renewable by custom, may make application for the purchase of the fee simple and inheritance of such lands, tenements, and hereditaments, and shall be entitled to the conveyances of the same upon the like terms, in like manner, with the like rights, and subject to the like conditions and liabilities in every respect as if such immediate or inferior tenants held the said lands, tenements, and hereditaments under leases from sole ecclesiastical corporations in Ireland, and were therefore entitled to make such applications under the Act of the session of the third and fourth years of King William the Fourth, chapter thirty-seven, and the Acts amending the same, but subject to the limitations in that behalf contained in section thirty-one of the principal Act.

Power to
tenants
under leases
from eccle-
siastical cor-
porations
aggregate to
apply for
perpetuities.

See 31st section, *ante*, page 22. The following are the particular classes of holdings mentioned in 3 & 4 Wm. IV., c. 37, s. 128, viz.:—"Tenants or lessees holding under or by virtue of any lease or contract for term of twenty-one years, or for term of twenty-one years or three lives, or for three lives, or for term of forty years."

13. The provisions of section fifty-two of the principal Act authorizing the Commissioners to accept security for a portion of the purchase money at the rate of four per centum per annum shall be deemed to have been made applicable, and to apply, as to the rate of interest, to cases of security contemplated by the hundred and fifty-fifth section of the Act passed in the session of Parliament held in the third and fourth years of King William the Fourth, chapter thirty-seven.

Extension of
provision of
section 52
of Irish
Church Act,
1869, as to
security for
purchase
money.

14. Whereas Alfred J. Phipps, now accountant in the office of the Commissioners of Church Temporalities in Ireland, served for a period of thirty years previous to his appointment to the said office in an established capacity in the permanent civil service of the State in the office of Her Majesty's Commissioners of Woods, Forests, and Land Revenues, and it is expedient that provision should be made for the grant of superannuation allowance to the said Alfred J. Phipps in case he shall retire from his said office or become incapable, from infirmity of mind or body, to discharge the duties of the same, and for the grant of compensation in case his said office shall be abolished: Be it therefore enacted, that in case the said Alfred J. Phipps shall retire from his said office or become incapable, from infirmity of mind or body, to discharge the duties of the same, or in case the said office shall be abolished or shall cease to exist, it shall be lawful for the Commissioners of Church Temporalities in Ireland, with the consent of the Commissioners of Her Majesty's Treasury, to grant to the said Alfred J. Phipps such superannuation allowance or compensation as they shall think fit; and such superannuation allowance or compensation

Commis-
sioners may
award super-
annuation
allowance or
compensa-
tion to
present
accountant
in certain
events.

Section 14. shall be estimated and awarded on the same terms and subject to the same conditions as are provided in the case of persons serving in an established capacity in the permanent civil service of the State by "The Superannuation Act, 1859." Provided always, that in estimating the number of years during which the said Alfred J. Phipps shall have served, the said Commissioners shall take into account the number of years during which he shall have served in the office of Her Majesty's Commissioners of Woods, Forests, and Land Revenues and in the office of the Commissioners of Church Temporalities in Ireland. Such portion of the said superannuation or compensation allowance as the Commissioners of Her Majesty's Treasury shall, in writing under the hand of one of their secretaries, certify to be the amount of superannuation allowance which might have been awarded to the said Alfred J. Phipps under the said Act had he been compelled to retire from the public service from age or ill-health at the time of his transfer to the service of the Commissioners of Church Temporalities in Ireland, shall be paid out of moneys provided for that purpose by Parliament, and the remainder of such superannuation or compensation allowance (if any) shall be paid out of the revenues of the Commissioners of Church Temporalities in Ireland, and be dealt with in the same manner as other compensation and superannuation allowances under the principal Act.

[See section 44 of the principal Act.]

SCHEDULE.

FIXED ANNUAL INSTALMENTS for PURCHASE of RENTCHARGES in lieu of TITHES.

When the fixed annual instalments shall be	$\left\{ \begin{array}{l} \text{Ten} \\ \text{Twenty} \\ \text{Thirty} \\ \text{Forty} \\ \text{Fifty-two} \end{array} \right\}$	in number	$\left\{ \begin{array}{l} \text{Three} \\ \text{Five} \\ \text{Seven} \\ \text{Nine} \\ \text{Ten} \end{array} \right\}$	$\left\{ \begin{array}{l} \text{twentieth parts of the} \\ \text{legal rate of Income} \\ \text{Tax shall be allowed} \\ \text{by deduction from the} \\ \text{fixed annual instalment.} \end{array} \right\}$
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FIXED HALF-YEARLY INSTALMENTS under the 52nd SECTION of the IRISH CHURCH ACT, 1869.

When the fixed half-yearly instalments shall be	$\left\{ \begin{array}{l} \text{Ten} \\ \text{Twenty} \\ \text{Thirty} \\ \text{Forty} \\ \text{Fifty} \\ \text{Sixty-four} \end{array} \right\}$	in number	$\left\{ \begin{array}{l} \text{Two} \\ \text{Three} \\ \text{Five} \\ \text{Six} \\ \text{Seven} \\ \text{Eight} \end{array} \right\}$	$\left\{ \begin{array}{l} \text{twentieth parts of the} \\ \text{legal rate of Income} \\ \text{Tax shall be allowed by} \\ \text{deduction from the fixed} \\ \text{half-yearly instalments,} \end{array} \right\}$
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PART II.

MISCELLANEOUS ACTS, which are either incorporated or connected with THE IRISH CHURCH ACTS.

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I. "The <i>Lands</i> Clauses Consolidation Act, 1845," . . .	49
II. "The <i>Railway</i> Clauses Consolidation Act, 1845," . . .	52
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I.—"THE LANDS CLAUSES CONSOLIDATION ACT, 1845."

8 & 9 VICTORIA, CAP. 18.

An Act for consolidating in one Act certain provisions usually inserted in Acts authorizing the taking of lands for undertakings of a public nature.

[8th May 1845.]

[Sections incorporated with "*The Irish Church Act, 1869.*"*]

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

69. If the purchase money or compensation which shall be payable in respect of any lands or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same except under the provisions of this or the special Act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the bank, in the name and with the privy of the Accountant-General of the Court of Chancery in England if the same relate to lands in England or Wales, or the Accountant-General of the Court of Exchequer in Ireland† if the same relate to lands in Ireland, to be placed to the account there of such Accountant-General, *ex parte* the promoters of the undertaking (describing them by their proper name), in the matter of the special Act (citing it), pursuant to the method prescribed by any Act for the time being in force for regulating moneys paid into the said courts; and such moneys shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes; or

In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner, as the lands in respect of which such money shall have been paid stood settled; or

* See Section 57, *ante*, page 36, and 14 and 15 Vic., c. 70, s. 23.

† The Equity jurisdiction of the Court of Exchequer in Ireland was transferred to the Court of Chancery in Ireland, by the Act 13 and 14 Vic., c. 51.

If such money shall be paid in respect of any buildings taken under the authority of this or the special Act, or injured by the proximity of the works, in removing or replacing such buildings or substituting others in their stead, in such manner as the Court of Chancery shall direct; or

In payment to any party becoming absolutely entitled to such money.

Order for application and investment meanwhile.

70. Such money may be so applied as aforesaid upon an order of the Court of Chancery in England or the Court of Exchequer in Ireland, made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said Accountant-General in the purchase of three per centum consolidated or three per centum reduced bank annuities, or in Government or real securities, and the interest, dividends, and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

Sums from £20 to £200 to be deposited or paid to trustees.

71. If such purchase money or compensation shall not amount to the sum of two hundred pounds, and shall exceed the sum of twenty pounds, the same shall either be paid into the bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled; and in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such moneys, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees; but such last-mentioned application of the moneys shall not be made unless the promoters of the undertaking approve thereof and of the trustees named for the purpose; and the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner hereinbefore directed with respect to money paid into the bank, but it shall not be necessary to obtain any order of the court for that purpose.

Sums not exceeding £20 to be paid to parties.

72. If such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit, or in case of the coverture, infancy, idiocy, lunacy, or other incapacity, of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees, or trustees of such persons.

All sums payable under contract with persons not absolutely entitled to be paid into bank,

73. All sums of money exceeding twenty pounds, which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him absolutely for his own benefit, shall be paid into the bank or to trustees in manner aforesaid; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels, or other accommodation works, or for assenting to or not opposing the passing of the bill authorizing the taking of such lands; but all such moneys shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy: Provided always, that it shall be in the discretion of the Court of Chancery in England or the Court of Exchequer in Ireland, or the

said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the bank, or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance which he may be considered to sustain, independently of the actual value of the lands to be taken and of the damage occasioned to the lands held therewith, by reason of the taking of such lands and the making of the works.

74. Where any purchase money or compensation paid into the bank under the provisions of this or the special Act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

Court of Chancery may direct application of money in respect of leases or reversions as they may think just.

76. If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, in the bank, in the name and with the privity of the Accountant-General of the Court of Chancery in England or the Court of Exchequer in Ireland, to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands (describing them so far as the promoters of the undertaking can do), subject to the control and disposition of the said court.

Where parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited.

78. Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in England or the Court of Exchequer in Ireland, may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit.

Application of money so deposited.

79. If any question arise respecting the title to the lands in respect whereof such moneys shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to

Party in possession to be deemed the owner.

the satisfaction of the court; and unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

Costs in cases of money deposited.

80. In all cases of moneys deposited in the bank under the provisions of this or the special Act, or an Act incorporated therewith, except where such moneys shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the promoters of the undertaking; (that is to say,) the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such moneys in Government or real securities, and of the reinvestment thereof in the purchase of other lands, and also the costs of obtaining the proper orders for any of the purposes aforesaid, and of the orders for the payment of the dividends and interest of the securities upon which such moneys shall be invested, and for the payment out of court of the principal of such moneys, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants: Provided always, that the costs of one application only for reinvestment in land shall be allowed, unless it shall appear to the Court of Chancery in England or the Court of Exchequer in Ireland that it is for the benefit of the parties interested in the said moneys that the same should be invested in the purchase of lands, in different sums and at different times, in which case it shall be lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

II.—“THE RAILWAY CLAUSES CONSOLIDATION ACT, 1845.”

8 & 9 VICTORIA, CAP. 20.

An Act for consolidating in one Act certain provisions usually inserted in Acts authorizing the making of Railways.

[8th May, 1845.]

[Sections incorporated with “*The Irish Church Act, 1869.*”*]

Arbitration.

And with respect to the settlement of disputes by arbitration, be it enacted as follows:

Appointment of arbitrators when questions are to be determined by arbitration.

126. When any dispute authorized or directed by this or the special Act, or any Act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the company, under the hand of the secretary or any two of the direc-

* See section 65, ante, page 37.

tors of the company, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate, under the common seal of such corporation, and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matters so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

127. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable to act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or incapacity as aforesaid.

Vacancy of arbitrator to be supplied.

128. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under this or the special Act; and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire.

129. If in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire; the Board of Trade shall, on the application of either party to such arbitration, appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

Board of Trade empowered to appoint an umpire, on neglect of the arbitrators.

130. If where a single arbitrator shall have been appointed, such arbitrator shall die, or become incapable to act, before he shall have made his award, the matters referred to him shall be determined by arbitration, under the provisions of this or the special Act, in the same manner as if such arbitrator had not been appointed.

In case of death of single arbitrator the matter to begin *de novo*.

131. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

If either arbitrator refuse to act, the other to proceed *ex parte*.

132. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time, if any, as shall have been appointed for that

If Arbitrators fail to make their award within twenty-one days, the matter to

go to the
umpire.

Power for
arbitrators
to call for
books, &c.

Arbitrator
and umpire
to make
declaration.

purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire to be appointed as aforesaid,

133. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

134. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall, in the presence of a justice, make and subscribe the following declaration, that is to say,

‘ I, A.B., do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me, under the provisions of the Act [naming the special Act].
A.B.

‘ Made and subscribed in the presence of

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Costs to be
in the dis-
cretion of
the arbitra-
tors.

135. Except where by this or the Special Act, or any Act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators.

Submission
to arbitra-
tion may be
made a rule
of Court.
The award
not to be set
aside for
matter of
form.

136. The submission to any such arbitration may be made a rule of any of the Superior Courts, on the application of either of the parties.

137. No award made with respect to any question referred to arbitration under the provisions of this or the Special Act shall be set aside for irregularity or error in matter of form.

III.—“THE IRISH PRESBYTERIAN CHURCH ACT, 1871.”

34 & 35 VICTORIA, CAP. 24.

An Act for regulating the management by the Trustees of the Presbyterian Church in Ireland of certain trust properties for the said Church, and for other purposes. [16th June, 1871.]

WHEREAS by the Irish Church Act, 1869,* it was enacted, that any minister or assistant minister of any Protestant non-conforming congregation to or for whom any annuity was paid or secured under the said Act, by reason of the discontinuance of the Parliamentary grant commonly called and in the said Act referred to as “the Regium Donum,” might apply to the Commissioners in the said Act mentioned to commute his annuity for a capital sum to be paid to him, and the said Commissioners, if satisfied that the annuity of the applicant was not encumbered, or if encumbered that the encumbrancers consented to the commutation, should cause the then present value of the annuity to be estimated, and should pay the amount of such estimated value to trustees, such trustees to be appointed in the case of any such minister or assistant minister as aforesaid by such minister or assistant minister and the general assembly or synod or presbytery, as the case might be, of the church or religious community to which such minister or assistant minister might belong:

* See section 39, ante, page 28

And whereas it was by the said Act* also enacted that the said Commissioners should at any time between the first day of January one thousand eight hundred and seventy-one and the first day of January one thousand eight hundred and seventy-three, but not afterwards, if it appeared to them as respected any Protestant non-conforming body or communion, that not less than three-fourths of the whole number of the ministers of such body or communion authorized to commute under the said Act had commuted or agreed to commute their life interests, pay, in addition to the moneys otherwise payable by them, a sum equal to twelve pounds in the hundred on the commutation money payable in respect of each life interest, such addition to be disposed of in the same manner as the commutation money in respect of which it was added:

And whereas upwards of three-fourths of the whole number of the ministers of the general assembly of the Presbyterian Church in Ireland authorized to commute under the said Act have already commuted their life interests for capital sums under the provisions of the said Act (which ministers who have already commuted as aforesaid are hereinafter designated "the said commuting ministers"):

And whereas the said commuting ministers and the said general assembly duly appointed the several persons hereinafter named to be trustees to receive the said capital sums pursuant to the said Act:

And whereas, in order to enable the said trustees to pay to each of the said commuting ministers an annuity for his life, provided he should so long continue in his office of minister of the said church, equal to the annuity commuted by him as aforesaid, and at the same time to preserve undiminished the entire amount of the said commutation money as a source of permanent endowment for the said church, certain members of the said church agreed to raise by voluntary annual contribution or otherwise a certain amount of income, to be called "the sustentation fund" of the said church (and hereinafter designated as "the said sustentation fund"), the same to be applied in each and every year so long as any such life annuity should be payable as aforesaid to supplement the annual income arising from the said commutation money, so far as might be required for the payment in full of the several annuities so to be paid as aforesaid:

And whereas the management of the said sustentation fund, so far as regards the raising the same, has been duly entrusted to a committee elected and to be elected by the said general assembly of the said Presbyterian Church:

And whereas donations and bequests to the said sustentation fund were directed to be funded by the said commutation trustees, if the donors or testators should so desire:

And whereas the said commuting ministers, having been desirous of co-operating in the formation of such sustentation fund, agreed that the said commutation money payable in respect of their several and respective life interests as aforesaid should be vested in the said trustees, on certain trust contained in and declared by an indenture dated the thirteenth day of July one thousand eight hundred and seventy, and made between the said commuting ministers of the first, second, third, and fourth parts, and the said trustees of the fifth part:

And whereas by the said indenture it was agreed and declared that the said trustees should apply for and receive from the said Commissioners the commutation moneys payable by them in respect of the annuities of the said commuting ministers, and should stand possessed thereof on the trusts in the said indenture as aforesaid:

* See section 23, *ante*, page 15.

And whereas the said trustees have received or will shortly receive the said commutation moneys payable by the said Commissioners as aforesaid in respect of the annuities of the said commuting ministers (including as well the amount of the estimated value of the said annuities respectively as also the said twelve pounds per cent. additional payable on the contingency aforesaid):

And whereas several of the ministers of the said general assembly who have not yet commuted the annuities payable to them respectively under the said Act may yet do so:

And whereas certain colleges and other property and trust funds connected therewith which have been given and bequeathed for the education of ministers for the said church are now vested in certain parties as trustees for the said church: and there are also churches, manses, and other property connected therewith, now vested in certain parties as trustees, for congregations connected with the said church; and there are also trust funds and moneys which have been given and bequeathed by members of the said church, for missions and other charities connected with said church, and said trust funds and moneys are now vested in or under the control of divers persons as trustees for the said church, and portions thereof have been invested on mortgages of lands and in other securities:

And whereas it is desirable that provisions such as are in this Act contained should be made in relation to the said colleges, churches, manses, trust funds, moneys, and other properties and securities which are now belonging to or which shall be devised or bequeathed to and for the use of the said church, or of congregations connected with the said church:

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

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 the present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Irish Presbyterian Church Act, 1871."

Trustees.

2. Sir Edward Coey, James Porter Corry, Esq., J.P., George McCarter, Esq., William Martin, Esq., Rev. Robert Black, Rev. Lowry E. Berkeley, Daniel Taylor, Esq., J.P., William Shaw, Esq., James Brown, Esq., Rev. John Macnaughton, Leonard Dobbin, Esq., Thomas Ferguson, Esq., J.P., Thomas A. Dickson, Esq., Archibald D. Lemon, Esq., Robert Porter, Esq., Thomas Sinclair, Esq., J.P., William Macnaughtan, Esq., Henry Matier, Esq., Rev. Charles L. Morell, Rev. John H. Orr, Rev. John R. MacAlister, James S. Crawford, Esq., J.P., Robert G. McCrum, Esq., Rev. Professor Smyth, D.D., William F. Bigger, Esq., J.P., William Tillie, Esq., J.P., Rev. N. M. Brown, Hugh Moore, Esq., John Adams, Esq., J.P., D.L., Rev. James A. Robson, William Young, Esq., William Wilson, Esq., Robert Stevenson, Esq., J.P., and Rev. Dr. Wilson, being the trustees named in said deed, and their successors appointed as hereinafter expressed, shall be "The Trustees of the Presbyterian Church in Ireland," for the purpose of carrying into effect the provisions of this Act, and are in this Act referred to as "the trustees."

Commutation moneys vested in trustees

3. From and after the passing of this Act, all moneys paid or payable in respect of the annuities of ministers who at the date of such passing have commuted the annuities payable to them respectively under the said Act, and all securities therefor, and the right to receive and realize

the same respectively, are transferred to and vested in the trustees and their successors, subject to the directions and enactments affecting the same herein-after contained.

4. It shall be lawful for the trustees, if they shall think fit, with the consent in writing of any minister of the said church who has not before the passing of this Act commuted the annuity payable to him under the said Act, to apply to the said Commissioners for all commutation moneys (including the said twelve pounds per cent. if payable) in respect of the annuity of any such minister who shall hereafter agree to commute his said annuity, and thereupon the said Commissioners shall pay such commutation moneys to the trustees.

Commutation money of subsequently commuting ministers.

5. The trustees shall, out of the said commutation moneys now paid or to be paid as aforesaid, (and which moneys are hereinafter referred to as "the commutation fund,") and out of the interest, dividend, and annual income thereof, pay to each minister who has as aforesaid commuted his annuity such annual sum as has heretofore been payable to him under the provisions of the said indenture, and to each minister who, after the making of the said indenture and before the passing of this Act, has commuted or who shall commute after the passing of this Act such annual sum as shall after such passing be mutually agreed upon between such last-mentioned minister and the trustees: Provided always, that the trustees shall in the first place apply the interest, dividends, and annual income of the said commutation fund in or towards payment of the said several annuities, and if they shall receive from the treasurer for the time being of the sustentation fund of the said general assembly, or from other sources, any other sums of money applicable for the same purpose, shall apply such sums of money in or towards payment of the said several annuities, and if after such application of the said interest, dividends, and annual income, and other sums of money respectively as aforesaid, the said several annuities shall not be fully paid, then and in such case, and from time to time so often as the same shall happen, the trustees shall raise out of the capital of the said commutation fund so much as may be required for payment of the said several annuities in full, and apply such money in payment of the same accordingly.

Application of commutation fund and moneys received from treasurer of sustentation fund.

6. If at any time the interest, dividends, and annual income of the said commutation fund, together with such other sums of money as may be received by the trustees, and be applicable for the purpose as aforesaid, shall be more than sufficient for payment in full of the said several annuities for the time being charged upon and payable out of the commutation fund, then and in such case, and from time to time so often as the same shall happen, the trustees shall pay and apply such annual surplus of the said interest, dividends, and annual income, and other sum of money, in such manner as the general assembly shall from time to time direct.

Application of surplus of commutation and sustentation funds.

7. Any minister entitled to an annuity under or by virtue of the provisions aforesaid may by notice in writing served upon the secretary or agent of the trustees require the trustees to purchase, for and in the name of such minister, and in lieu of the annuity payable to him under or by virtue of the provisions aforesaid, a government annuity of the like amount for his life; and thereupon the trustees shall purchase such life annuity for and in the name of such minister, and such minister shall thereupon cease to have any further claim or demand whatever upon the commutation fund, or the interest, dividends, or annual income thereof, but shall nevertheless be entitled to receive out of any sums of money paid to the trustees by the treasurer for the time being of the sustentation fund for augmentation of ministers' annuities such further annual

Ministers may require trustees to purchase annuities, after which claim on commutation fund to cease.

sum as the trustees shall ascertain and determine to be properly payable to such minister, having regard to the amount of the sums of money so applicable for the purpose, and to the extent to which the benefit derivable from commutation has been lessened by the purchase for such minister of such life annuity as aforesaid.

Receipt of minister, his executors, administrators, or assigns, full discharge.

8. The receipt in writing of any minister entitled to an annuity, or of his executors, administrators, or assigns, for the last quarterly payment of the annuity to which he may be so entitled under the provisions aforesaid, shall be deemed and taken to be a release in full to the trustees of all claims and demands whatsoever in respect of the commutation money and per-centage (if any) thereon paid by the said Commissioners to the trustees in respect of the commuted annuity of such minister, or any undisposed residue thereof, and in respect of all arrears on foot of the annuity to which such minister was in his lifetime entitled as aforesaid, other than and except any proportional part of the current gale of the said annuity which may have accrued between the day of his death and the gale day next preceding his death, and subject only to the payment of such apportioned part (if any), the trustees shall thenceforth hold such commutation money so paid to them as aforesaid discharged from such annuity, and from all claims in respect thereof or in relation thereto.

Trust moneys, after payment of annuities, &c., to be left for permanent endowment of ministers for the time being of Presbyterian Church.

9. When and so soon as all of the said several life annuities so payable out of the said commutation fund as aforesaid shall have determined, and all claims and demands against the said fund in respect thereof shall have been satisfied, the said commutation fund, and the stocks, funds, and securities in which the same shall be invested, shall thenceforth be held by the trustees upon such trusts by way of permanent endowment for the benefit of the ministers for the time being of congregations of the Presbyterian Church in Ireland in connexion with and under the jurisdiction of the said general assembly as the said assembly shall direct: Provided always, nevertheless, that the interest, dividends, and annual income only of the said fund shall be applied for the benefit of such ministers, and that such preference as the general assembly may in its absolute and uncontrolled discretion think right shall be given to the claims of congregations whose ministers shall have so commuted as aforesaid.

Trusts of sustentation fund

10. The trustees shall receive from the treasurer of the sustentation fund all sums given, subscribed, or bequeathed thereto, and shall, subject to the provisions herein-before contained for the purpose of securing their annuities to the ministers who have commuted or may commute as aforesaid, pay and apply such sums as the said general assembly may from time to time direct: Provided always, that donations and bequests given or bequeathed to or in favour of the said sustentation fund, and directed to be permanently invested or otherwise given or bequeathed as an endowment fund for the sustentation of the ministry of the said church, and received by the trustees, shall be invested by them, and unless the respective donors or testators shall otherwise direct, the interest, dividends, and annual income thereof shall be paid and applied by the trustees as the general assembly may from time to time direct, and if such donor or testator shall specifically direct the trustees to apply the same to the support of the minister of any particular congregation, the same shall be applied accordingly by the trustees.

Gifts, bequests, or transfers to trustees to be held on trusts.

11. It shall be lawful for the trustees, if they shall think fit, with the approval of the said general assembly, to accept or take a transfer of any other gift or bequest of personal property given or bequeathed for the endowment or permanent use or benefit of the said church, or any college,

congregation, mission, or charity connected therewith, or to take a transfer from any trustee or other person in whom the same shall be vested of any endowment or fund or securities for the purposes aforesaid, and the trustees shall hold such personal property so given, bequeathed, or transferred as aforesaid, on the trusts declared by or contained in the deed, will, or other instrument of endowment.

12. The trustees may from time to time invest the said commutation fund, and all other moneys that shall come to their hands under the provisions contained for the said church, in any of the public stocks or funds or government securities of the United Kingdom or India, or any colony or dependency of the United Kingdom, or upon mortgage of real securities in England, Wales, or Ireland, or in any other securities whatever which the said general assembly of the said church shall from time to time appoint; and no trustee shall be liable for any loss occasioned by the depreciation or failure of any such investment or otherwise, save by his own wilful default; and the trustees from time to time, at their discretion, may vary or transpose such stocks, funds, and securities into or for others of the same or a like nature.

Mode of investment of trust funds.

Non-liability of trustees, save for wilful default.

13. It shall be lawful for Her Majesty by charter to incorporate the trustees with power, notwithstanding the Statutes of Mortmain, to hold land to such extent as is in this Act provided, but not further or otherwise, and the trustees when so incorporated by charter shall continue to act in the execution of this Act.

Incorporation by Royal Charter.

14. It shall be lawful for the trustees, when incorporated by charter as aforesaid, to invest all moneys vested in them for that purpose in the absolute purchase, or in procuring leases or fee-farm grants subject to annual or other rents, and with or without fines, of lands for the erection thereon of churches, or of manse for the use of the ministers of said church, or for schools or other buildings in connexion with said church buildings, or for other church purposes, the lands so to be purchased not to exceed thirty acres for each congregation, and to sell, grant, or demise the lands so purchased to trustees, for the minister and congregations of each church, for such sum or at such rent and for such term as the trustees shall think fit, or to permit such ministers and congregations to occupy and use the same at such rent and upon such terms and conditions as the trustees shall think fit; and the trustees may execute all such deeds, grants, leases, or other documents as may be necessary for the purpose aforesaid.*

Power to invest funds in purchase, &c. of lands for manse, &c. not exceeding thirty acres for each church.

15. It shall be lawful for the trustees of any college, church building, schoolhouse, manse, or other real property, whether freehold or chattel, held in trust for the said church or any congregation in connexion therewith, or any person or persons in whom the same may be vested, if they or he respectively shall think fit, to grant, assign, or otherwise vest in the trustees when incorporated by charter as aforesaid, with their concurrence, such college, church building, schoolhouse, manse, or other real property, whether freehold or chattel, to be held by the trustees upon such trust and subject to such rights as at the time of such grant, assignment, or vesting affected the same respectively, and the former trustees shall be thereupon released from the trusts thereof respectively.

Power to vest colleges, church buildings, &c. in trustees.

16. It shall be lawful for any person whomsoever, entitled so to do, to give, grant, devise, bequeath, or assure, by any deed, will, or other instrument sufficient in law to create or convey an estate therein, any messuages, lands, hereditaments, or any estate therein, to the trustees when incorporated by charter as aforesaid for any college, or for any

Power to hold lands for colleges, &c.

* See Glebe Loan (Ireland) Acts, *post*, page 63, and Glebe Lands (Ireland) Acts, *post*, page 71.

church building or schoolhouse in connexion with any congregation or church, or for a hall for the meeting of the said general assembly: Provided always, that under the provisions aforesaid or otherwise not more than thirty acres shall be held in trust for any congregation, nor more than one hundred acres in trust for any college, nor more than twenty acres in trust for erecting thereon a hall, offices, or other buildings for the use of said general assembly: Provided always, nevertheless, that any such gift, grant, bequest, or assurance of lands in excess of the acreage hereby authorized to be held as aforesaid shall be void as to the excess only.

Power to sell
surplus
lands.

17. The trustees, when incorporated by charter as aforesaid, may from time to time sell, lease, exchange, or otherwise dispose of, on such terms and in such manner as they think fit, or mortgage, any lands vested in them, and not being otherwise required for purposes of the said church or any of the colleges or congregations connected therewith, and may enter into, execute, and do all contracts, assurances, and things necessary or proper in that behalf; and every such sale or lease as aforesaid may be made either absolutely for a sum in money, or for any annual rent or rents, to be made payable as the trustees direct, or partly for a sum of money and partly for such rent or rents as aforesaid, as the trustees think fit, and the trustees may afterwards sell any rent so to be made payable.

Directions as
to business
accounts, &c.

18. The trustees shall conduct their business at such place, and keep such minute books, and shall keep and render such accounts, and make such reports, from time to time, and hold such meetings, as the said general assembly of the Presbyterian Church shall from time to time direct and require.

Power to
appoint
officers.

19. It shall be lawful for the trustees from time to time to appoint a treasurer or treasurers, secretary, and such other officers and agents, and to prescribe for them such duties, and to pay them such remuneration for their services, as the trustees shall think fit; and such treasurer or treasurers, secretary, and other officers shall hold their respective offices on such terms as the trustees shall determine.

Power to
appoint
actuary.

20. The trustees shall, until all the annuities payable to the said commutating ministers shall have ceased, at the end of every third year, or oftener if required so to do by the said general assembly, certified as such by the clerk thereof, appoint a competent actuary to value and report upon the assets and liabilities of the said commutation fund, which report shall be laid before the general assembly at its next meeting.

Power to
general
assembly
to appoint
auditors.

21. The said general assembly may, at its ordinary meetings in each year, or at any extraordinary meeting specially convened for the purpose, appoint two or more fit and proper persons to examine and audit the accounts of the trustees; and such auditors shall have power to call for and require the production of all books of account, vouchers, and documents relating to the income and expenditure of the trust during the year to which the accounts so to be audited may relate, and the same shall be produced to them accordingly.

Receipts by
treasurer,
&c. a dis-
charge.

22. The receipt in writing of the treasurer or treasurers, or of any of the trustees authorized in that behalf by byelaw, for any moneys paid, and for any stocks, funds, shares, or securities transferred to them by virtue of this Act, or in execution of any of the trusts or powers thereof, shall effectually discharge the person or persons paying or transferring the same therefrom, and from being bound to see to the application or being answerable for the loss or misapplication thereof.

Contracts by
trustees.

23. With respect to contracts to be made by the trustees the following provisions shall have effect; (that is to say,)

With respect to any contract which if made between individuals would

be by law required to be in writing and under seal, the trustees may make the same in writing under their common seal, when incorporated by charter as aforesaid, or until incorporated under the hands and seals of the trustees or any five of them acting on behalf or under the direction of the trustees, and in the same manner may vary or discharge the same :

With respect to any contract which if made between individuals would be by law required to be in writing and signed by the parties to be charged therewith, the trustees may make the same in writing signed by any two of them, or by the treasurer or any person appointed by byelaw to act in that behalf generally or in any particular case, and in the same manner may vary or discharge the same :

With respect to any contract which if made between individuals would be by law valid though not reduced into writing, the trustees, or any two of them, or the treasurer or any person acting on behalf or under the direction of the trustees may make the same, or authorize the same to be made, without writing, and in the same manner may vary or discharge the same :

And all contracts made according to the provisions of this section shall be effectual at law, and shall be binding on the trustees, and on all other parties thereto, their heirs, executors, or administrators ; and on any default in execution of their obligation, either by the trustees or any party thereto, such actions or suits may be brought either by or against the trustees as might be brought if the same contract had been made between individuals.

24. The said general assembly of the Presbyterian Church, and the said trustees and executive committee of the trustees respectively, in discharging their respective duties under this Act, or any byelaws to be made in pursuance thereof, shall cause notes, minutes, or copies (as the case requires) of their orders, resolutions, and proceedings to be entered in books to be kept under their superintendence ; and every such entry shall be signed by the moderator of the general assembly, or by the chairman of the meeting at which the order, resolution, or proceeding entered was passed or taken, or by the moderator or chairman, as the case may be, of the next subsequent meeting ; and every such entry so signed shall be received as evidence in all courts and elsewhere without proof of the meeting having been duly convened or held, or of the persons making or taking any such order, resolution, or proceeding, or causing the same to be entered, being members of the general assembly or being trustees (as the case may be), or of the signature of the person signing as chairman, or of the fact of his having been moderator or chairman, as the case may be, all which matters shall be presumed until the contrary is shown.

Minutes of meetings to be kept.

25. All acts done at a meeting of the general assembly or of the trustees, or of any committee thereof, by any person acting as a member of the general assembly or of the trustees or committee, shall, notwithstanding it being afterwards discovered that there was some defect in the appointment of any such person so acting, or that he was disqualified, be as valid as if there had been no such defect or disqualification.

Acts done at meeting of general assembly valid notwithstanding disqualification.

26. Any order, resolution, or proceeding of the trustees, or any power by this Act conferred, or any gift, devise, or bequest to the trustees, or otherwise, for the benefit of the said church, or any congregation, college, mission, or charity connected therewith, shall not be invalidated by reason only of there being a vacancy among the trustees.

Validity of gifts and bequests notwithstanding vacancy in the office of a trustee.

27. The trustees shall not, nor shall any of them, by being party to or executing as such trustee any contract or other instrument, or otherwise lawfully executing any of the powers given to the trustees by this Act

Indemnity to trustees.

or the byelaws to be made in pursuance of its provisions, be subject to be sued or prosecuted by any person whomsoever, nor shall the bodies, goods, or lands of such trustees or any of them be liable to execution of any legal process by reason of any contract or other instrument so entered into, signed, or executed by them, or any of them, or by reason of any other lawful act done by them, or any of them, in the execution of any of their powers as such trustees as aforesaid, and the trustees, their heirs, executors, and administrators, shall be indemnified out of the trust funds for all payments made or liabilities incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of this Act, and the trustees for the time being may apply the trust funds for the purposes of such indemnity.

Power to
pay travel-
ling ex-
penses, &c.
Mode of
election of
trustees.

28. It shall be lawful for the trustees to pay to any trustee all travelling and other expenses incurred by him in or about the execution of the said trusts or powers or any of them.

29. If any of the trustees hereinbefore named, or to be appointed as hereinafter provided, shall die, or be declared a bankrupt, or file a petition for relief under any Act or Acts for the time being in force for the relief of insolvent debtors, or make any composition with his creditors, or cease to be a member of some congregation in connexion with the said general assembly of the Presbyterian Church in Ireland, or to reside in Ireland, or shall be absent therefrom for a continuous period of twelve calendar months, or shall, by writing under his hand, delivered to the clerk for the time being of the said general assembly, express his desire to be discharged, or shall refuse or become incapable to act, or shall be removed from being one of the trustees by a vote of the said general assembly, then and in any of such cases it shall be lawful for the said general assembly at its annual meeting, or at any meeting specially convened for such purpose, to appoint a person to fill such vacancy (the successor to fill up such vacancy to be a minister if the deceased or retiring trustee was or is a minister, or such successor to be a layman if the deceased or retiring trustee was or is a layman): Provided always, that no person shall be eligible to be elected a trustee who at the time of holding any such meeting of the general assembly is not and has not for a period of at least two years been a member of some congregation in connexion with the said general assembly.

Power to
make bye-
laws, with
assent of
general
assembly, &c.

30. It shall be lawful for the trustees from time to time to make such byelaws, rules, and regulations as may be deemed expedient respecting the management and disposition of the trust property, estates, and effects vested in them, the investment of trust moneys or funds, the transfer of any moneys or funds so invested in or upon any other security, the appointment of such and so many committees as may be considered necessary for the despatch of business, and to delegate to them all or any of the powers of the trustees, and to prescribe the powers and duties each such committee shall possess and discharge, and to declare how many members shall be on each committee, and how many present shall be necessary to make a quorum of the trustees or of the said committees respectively, the giving or sending notices for and the times, places, and manner of their meetings, and for the general conduct, management, or control of business affairs, times of meeting, and proceedings of the trustees: Provided always, that the said byelaws, and every alteration, repeal, or addition thereto, shall not come into force and effect until approved of by the said general assembly of the Presbyterian Church, and such approval shall be duly evidenced by the same being signed by the moderator for the time being of the said assembly, and the clerks of assembly, or one of them; and the said general assembly, at the annual

meeting of assembly, or any meeting specially convened for the purpose, may by the vote of a majority at such meeting approve of, revoke, repeal, or alter, wholly or in part, all or any part of every or any such byelaw, rule, or regulation as aforesaid, and substitute or make any other byelaw, rule, or regulation in lieu thereof, as such general assembly shall think fit; and any instrument in writing which shall purport to be a byelaw, rule, or regulation of the trustees, and which shall be sealed with the common seal of the trustees when they are incorporated by charter as aforesaid, or until incorporated shall be under the hands and seals of the trustees, or any five of them, shall be received as *prima facie* evidence of the same being such a byelaw, rule, or regulation in all courts and before all justices, officers, and persons whomsoever: Provided always, that the said bye-laws shall not at any time be altered by the trustees, nor any new ones be added thereto, unless at a meeting of the trustees duly convened for the purpose, and of which meeting fourteen days' notice shall previously be given or sent to each trustee in such form as may be provided by the byelaw for the time being as to notices, such notice to specify the proposed alteration, repeal, or addition.

31. The vote of the majority of the members for the time being of the general assembly present and voting at any meeting of the said assembly duly convened shall be considered as the act of the assembly for any of the purposes for which said act is hereby rendered necessary; and all votes and proceedings of the said general assembly, which shall be signed by the moderator thereof for the time being, and the clerks of the said assembly, or one of them, shall be received as evidence that same were passed at a meeting of the said assembly duly convened and constituted. Acts of
general
assembly.

32. Nothing in this Act contained shall be deemed or construed to entitle any minister to receive any annuity under this Act, except so long as he lives, and is continued in the ministry, by and with the consent of the said general assembly. Annuities
payable
during life,
&c.

33. The costs, charges, and expenses of and incident to the obtaining and passing of this Act and carrying same into effect, and the management of the trust estate, shall be paid by the trustees out of the moneys which are in or may come to their hands under the provisions of this Act. Costs.

IV.—“THE GLEBE LOAN (IRELAND) ACTS, 1870 to 1875.”

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(a) INSTRUCTIONS for PROCEDURE under “THE GLEBE LOAN (IRELAND) ACTS, 1870 to 1875.”

The Commissioners of Public Works are empowered (*until the 31st of August, 1878*) with the sanction of the Lords Commissioners of Her Majesty's Treasury, to make loans not exceeding two-thirds of the amount required for any of the following purposes, viz. :—

LOANS.—CLASS I.

The execution of any work consisting of the erection, enlargement, or structural improvement of any dwelling-house, offices, and

inclosures for any "*ecclesiastical person*"* having spiritual charge, as regards members of his own denomination, of any parish or district in which such work is executed, or permanently officiating in any church or chapel within such parish or district.

LOANS.—CLASS II.

The purchase of any glebe, which means any piece or parcel of land not exceeding in the whole ten acres, occupied or to be occupied by any such ecclesiastical person.

LOANS.—CLASS III.

The purchase of any dwelling-house, with or without offices, deemed desirable for the residence of any such ecclesiastical person.

LOANS.—CLASS IV.

The discharge of any debt incurred BEFORE THE 10TH AUGUST, 1870, in the purchase of any dwelling-house for any such ecclesiastical person, or in the purchase of any glebe-land, or in the erection, enlargement, or structural improvement of any such dwelling-house, offices, or inclosures.

The following conditions are enforced by the Board of Works, viz. :—

1. Every loan is to be repaid by an annuity or rent-charge at the rate of £5 per cent. (principal and interest included) for a period of thirty-five years, payable half-yearly, or the rent-charge may be calculated at an increased per-centage, so as to pay off the loan within a shorter period.

2. Persons to whom loans shall be granted for the execution of any work shall, previously to the issue of the loan or any instalment thereof, expend, secure, or deposit one-third of the estimated cost of the proposed work.

3. The premises comprising the glebe or glebe-house and offices will become charged with the loan by virtue of the Commissioners' order under their seal, and as an additional security, the joint and several bond of three solvent persons, two of whom must be laymen, will be required in all cases (save those of the purchase of glebe-land) to secure the payment of the half-yearly instalments of the rent-charge and fire insurance premium, and the buildings must be insured against damage by fire to such an amount as the Board shall direct. The ecclesiastical person occupying the premises is not eligible as a surety.

4. The ecclesiastical person for the time being occupying or entitled to occupy the premises will be personally liable to the payment of the rent-charge and of the premiums of fire insurance.

5. Applications for loans may be made by the ecclesiastical person having spiritual charge, or by a layman interested in the

* For definition of this term, see section 2 of Glebe Loan Act, 1870, *post*, page 66.

welfare of, the parish or district; but in every case the assent in writing of the ecclesiastical person, if he be not the memorialist, and all persons who are trustees of the site or dwelling-house, must be given.

6. When the loan is for the purpose of discharging debts incurred prior to 10th August, 1870, a schedule should be annexed to the memorial setting forth the creditor's name, address, and post-town; the sum due for principal and interest, if any, and the nature and particulars of the security given for the debt.

7. Each memorial should be accompanied by the several documents therein referred to as being annexed, and the title must be evidenced by the production of the deed or deeds showing that the premises are held in trust for ecclesiastical purposes, either in fee-simple, fee-farm, lives renewable for ever, or for an unexpired term of years sufficient to afford security for the payment of the annuity or rent-charge reserved to the Commissioners.

Note.—Forms of memorials for loans can be obtained on application to the Secretary, Office of Public Works, Custom House, Dublin, and the applicant should state the precise object of the loan, as specified in classes I., II., III., IV.

(b) "THE GLEBE LOAN (IRELAND) ACT, 1870."

33 & 34 VICTORIA, CAP. 112.

An Act to amend the Act of the first and second years of the reign of His late Majesty King William the Fourth, chapter thirty-three, in part, and to afford facilities for obtaining loans for the erection, enlargement, and improvement of Glebe Houses, and for the acquirement of lands for Glebes, in Ireland.

[10th August, 1870.]

WHEREAS, by an Act passed in the session of Parliament held in the first and second years of the reign of His late Majesty King William the Fourth, intituled "An Act for the extension and promotion of public works in Ireland," it was amongst other things enacted, that it should and might be lawful for the Commissioners of Public Works acting in the execution of the said Act to make loans or advances for works on security, by writing obligatory alone, upon the terms and conditions in the said Act mentioned:

And whereas it is expedient to afford facilities for obtaining loans for the erection, enlargement, and improvement of glebe houses, and for the acquirement of lands for glebes, in Ireland.

And whereas for the purposes aforesaid it is expedient to amend the said recited Act and to authorize the said Commissioners of Public Works in Ireland to make loans to the amount, upon the security, and in the manner by this Act authorized:

Be it therefore enacted by the Queen's most Excellent Majesty, by and

Note.—Previous to the passing of "The Irish Church Act, 1869," "ecclesiastical persons" connected with the late Established Church of Ireland were enabled to acquire glebes by the Act 14 & 15 Vict., cap. 73. See Glebe Lands (Ireland) Acts, *post* page 71, which also enable "ecclesiastical persons," of all religious denominations to acquire glebes.

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 :

Short title.

1. This Act may be cited for all purposes as "The Glebe Loan (Ireland) Act, 1870."

Interpretation of terms.

2. In this Act—

The term "ecclesiastical person" means and includes any archbishop, bishop, clergyman, priest, curate, or minister of any religious denomination whatsoever :

The term "work"* means the erection, enlargement, or structural improvement of any dwelling-house for any ecclesiastical person having spiritual charge, as regards members of his own denomination, of any parish or district in which such work is executed or permanently officiating in any church or chapel within such parish or district :

The term "glebe" means any piece or parcel of land, not exceeding in the whole ten acres, occupied or to be occupied by any ecclesiastical person while having spiritual charge of any parish or district in respect of which such glebe shall be purchased or acquired :

The Commissioners of Public Works may make advances to such amounts as may be sanctioned.

3. It shall be lawful for the Commissioners of Public Works in Ireland, during the continuance of this Act, with the sanction of the Commissioners of Her Majesty's Treasury, out of moneys issued to them or to be issued to them in pursuance of the provisions of the several Acts in the schedule to this Act annexed mentioned, to make loans to any person or persons of such sums as the said Commissioners of Public Works may think right and proper, upon the security and subject to the conditions by this Act authorized for all or any of the purposes following; (that is to say,)

1. The execution of any work.
2. The purchase of any glebe.
3. The discharge of any debt due and incurred before the passing of this Act in the purchase of any dwelling-house for any ecclesiastical person having spiritual charge, as regards members of his own denomination, of the parish or district, in which such dwelling-house is situate, or permanently officiating in any church or chapel within such parish or district, or in the purchase of any glebe.

One third of estimated cost of work to be secured.

4. The person or persons to whom such loans shall be granted for the execution of any work shall previously expend, secure, or deposit, in such manner as the said Commissioners of Public Works shall direct, a sum equal to not less than one third of the estimated cost of the construction of the proposed work; and no person or persons shall, for the purpose of purchasing any glebe or discharging any debt incurred before the passing of this Act in the purchase of any glebe be granted by way of loan a sum greater than two-thirds of the purchase money to be paid or already paid for such glebe.

Loan only to amount to two thirds of purchase money of glebe.

Security for repayment of loan for work.

5. The repayment of every loan which shall be made under the provisions of this Act for the purpose of executing any work, or discharging any debt incurred before the passing of this Act in the purchase of any dwelling-house for any ecclesiastical person as aforesaid, shall be secured by mortgage, bond, or otherwise, as the said Commissioners of Public Works, with the approval of the Commissioners of Her Majesty's Treasury, may think right; and every such security other than a mortgage shall be entered into by at least three persons, the sufficiency and solvency of which persons shall be made out to the satisfaction of the said Commis-

* For further definition of this term see Act of 1871, section 2, *post*, page 68.

sioners of Public Works, and shall be subject to such conditions as the said Commissioners of Public Works, with such approval as aforesaid, shall deem to be proper.

6. Every loan which shall be made under the provisions of this Act for the purchase of any glebe or the discharge of any debt incurred before the passing of this Act in the purchase of any glebe shall be repaid by the payment of an annual rentcharge of the amount and for the time hereinafter mentioned, and every such glebe shall be deemed to be and shall be well charged with the payment of such rentcharge, and that in priority of all charges and incumbrances whatsoever, save and except quitrents and rentcharges in lieu of tithes, and also save and except all charges prior in date, if any, existing under or by virtue of any of the Acts mentioned in the schedule to this Act annexed; and all the provisions of the Act passed in the tenth and eleventh years of the reign of Her present Majesty, chapter thirty-two, as to the recovery of rentcharges payable thereunder, shall extend and apply to the recovery of rentcharges charged under the provisions of this Act upon glebes.*

7. Every loan which shall be made under the provisions of this Act shall be repaid by the payment to Her Majesty of an annual sum of five pounds for every one hundred pounds of such loan from time to time advanced, and so on in proportion for any lesser amount, and to be payable for the term of thirty-five years, to be computed from the date of the advance in respect of which the said annual sum shall be charged, such annual sum to be paid by equal half-yearly payments on the fifth day of April and tenth day of October in every year during the said term of thirty-five years, with such apportionment, if any, as may be necessary in respect of the first and last of such payments: Provided always, that the amount of such annual sum may, by agreement, and with the sanction of the Commissioners of Her Majesty's Treasury, be increased to such amount as will repay the sum so advanced sooner than the said period of thirty-five years hereinbefore appointed.

8. No mortgage, bond, obligation, security, contract, agreement, or other instrument whatsoever executed under the provisions of this Act, nor any memorial thereof for registration, shall be liable to any stamp duty whatever.

9. From and after the passing of this Act sections thirty-seven and thirty-eight of the Act of the first and second years of the reign of His late Majesty King William the Fourth, chapter thirty-three, shall be and the same are hereby repealed.†

10. The provisions of this Act, except the next preceding section, shall continue in operation until the first day of September one thousand eight hundred and seventy-five, and no longer.‡

SCHEDULE.

- 1 & 2 Will. 4. c. 33.
10 & 11 Vict. c. 32.
12 Vict. c. 23.
13 & 14 Vict. c. 31.
29 & 30 Vict. c. 40.

* The 39th section of the statute above cited empowers the Court of Chancery to appoint a receiver where any gale of rentcharge is in arrear for twenty-one days, on petition by the Attorney-General, and the 40th section enables the Attorney-General to recover by Civil Bill where any rentcharge (not exceeding £50) is in arrear for 31 days.

† These sections do not specially affect glebe loans.

‡ Period changed by 34 & 35 Victoria, c. 100, to 31st August, 1875, and extended by 38 & 39 Victoria, c. 30, to 31st August, 1878.

Security for repayment of loan for glebe.

Loan to be repaid by annuity. 29 & 30 Vict. c. 40, s. 3.

Rentcharge may be increased so as to repay sum advanced sooner than time appointed.

Mortgages, bonds, &c., under this Act exempt from stamp duty. Sects. 37 and 38, of 1 & 2 Will. 4, c. 33, repealed. Duration of Act.

(c) THE GLEBE LOAN IRELAND ACTS, 1871 & 1875.

“THE GLEBE LOAN (IRELAND) ACT, 1871.”*

34 & 35 VICTORIA, CAP. 100.

An Act to amend “The Glebe Loan (Ireland) Act, 1870.”

[21st August, 1871.]

33 & 34 Vict.
c. 112.

WHEREAS by “The Glebe Loan (Ireland) Act, 1870,” the Commissioners of Public Works in Ireland are authorized to make advances out of public money by way of loan for the several purposes in the said Act mentioned :

And whereas it is expedient to amend and extend the provisions of the said Act :

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 Glebe Loan (Ireland) Amendment Act, 1871,” and this Act and “The Glebe Loan (Ireland) Act, 1870,” shall be read together and construed as one Act ; and the said Acts may be cited as “The Glebe Loan (Ireland) Acts, 1870 and 1871.”

Interpreta-
tion of terms.

2. The term “principal Act” in this Act shall mean “The Glebe Loan (Ireland) Act, 1870 :”

The term “the board” in this Act or in any proceedings or document under the same shall mean “The Commissioners of Public Works in Ireland :”

The term “work” in the principal Act used shall also include offices and inclosures.

Incorporation of Com-
missioners of
Public Works
in Ireland.

3. The board for the purposes of the principal Act and of this Act shall be incorporated under the style of “The Commissioners of Public Works in Ireland,” and by that name shall have succession, and shall have a common seal, to be by them made and from time to time altered as they shall think fit ; and all courts, judges, justices, and persons judicially acting, and other officers shall take judicial notice of such seal, and every order or other act of the board in reference to the principal Act or this Act, or copies of the same purporting to be sealed with such seal, shall be received in evidence without further proof.

Additional
purposes for
which loans
may be
granted.

4. In addition to the purposes for which loans may be made, as stated in section three of the principal Act, the board may also make loans in the manner and subject to the conditions therein mentioned for either of the purposes following, viz. :—

1. The purchase of any dwelling-house, with or without offices, deemed desirable for the dwelling-house of any ecclesiastical person, such loan not to exceed two-thirds of the purchase money :
2. The discharge of any debt due and incurred before the tenth day of August, one thousand eight hundred and seventy, in the erection, enlargement, or structural improvement of any such dwelling-house or offices thereto annexed, such loan not to exceed two-thirds of the amount expended on such building.

* The Glebe Loan (Ireland) Act, 1875, merely extends the period during which loans may be made until 31st August, 1878, and has not therefore been printed *in extenso* in this work.

5. Every such loan made under this Act shall be repaid by the payment of an annual rentcharge as in the principal Act mentioned, and all lands, buildings, and premises in respect of which any such loan shall be made shall be deemed to be and shall be well charged with the payment of such rentcharge, and that in priority to all charges and incumbrances whatsoever affecting such estate or interest, save and except quitrents and rentcharges in lieu of tithes, and except all charges prior in date (if any) existing under any of the Acts mentioned in the schedule to the principal Act: Provided always, that in case such lands, buildings, or premises shall be held under any grant or demise, nothing therein contained shall prejudice or affect the right of the grantor or lessor in any such grant or demise, or of any superior grantor or lessor; and every such rentcharge shall be recovered in like manner as any rentcharge under the principal Act.

Security for the repayment of loan.

6. When any loan shall be made under the principal Act or this Act, the board, if they think fit, may insure against damage by fire all buildings and erections then or thereafter standing or being on the lands, hereditaments, and premises charged with such loan, such insurance to be effected in such insurance office or company, and in such sum of money, not exceeding the amount of such loan, as the board shall from time to time direct; and the board shall keep on foot such insurance as aforesaid, and all premiums paid thereon by the board shall be deemed to be included in all charges and securities whereby repayment of such loan shall be secured, and shall be forthwith recoverable in like manner as any instalment of the rentcharge payable in respect of such loan.

Insurance of premises subject to loan.

7. In all cases of loans under the principal Act or this Act, the board shall make an order under their seal, declaring that such loan has been made, and setting forth the amount of such loan, the names of the persons to whom or on whose application the same has been made, and a description of the lands, hereditaments, or premises charged therewith, and such order may be in the form set forth in the schedule to this Act, or to a similar effect.

Commissioners to make an order under their seal.

8. In all cases where the board shall have made any such order they shall execute under their common seal a duplicate hereof, and forthwith cause the said duplicate order to be lodged with the registrar of deeds in the office for registry of deeds in the city of Dublin, and the registrar of the said registry office, his and their assistants, deputies, and other officers, shall register the same in the same manner as any deeds or instruments are registered in said office, and shall enter a memorial thereof in the abstract books and indexes of or relating to memorials registered and kept in the said office, and shall return such registry in any search made in such registry office: Provided always, that no fees shall be payable in respect of such registration.

Commissioners to register order for loan.

9. From the date of such order, the lands, hereditaments, and premises therein mentioned shall become charged with the rentcharge to be payable in respect of any loan under the principal Act or this Act, and every such order shall be conclusive evidence of all facts stated therein in pursuance of the provisions of this Act.

The premises to become chargeable with the payment of rentcharge.

10. The rentcharge reserved to Her Majesty under the principal Act or this Act shall be paid to the board, and the receipt of the accountant of the board for the time being shall be a sufficient discharge for the same.

Rentcharge to be paid to the board.

11. The ecclesiastical person for the time being occupying or entitled to occupy the lands, buildings, or premises in respect of which any loan shall have been made under the principal Act or this Act shall be deemed personally liable to pay and discharge the annual rentcharge and arrears

Ecclesiastical person in occupation, &c., to pay rentcharge.

thereof, premiums of insurance, and other moneys on account of such loan accruing due during the term or interest of such person.

All the powers and provisions contained in the Acts mentioned in the schedule to the principal Act, and relating to the recovery of rentcharges under the provisions of the said Acts, shall apply to the recovery of rentcharges under the provisions of the principal Act and of this Act.

Certificate of amount due to be evidence.

12. In any proceedings which shall be taken for recovery of any rentcharge aforesaid or premium of insurance, a certificate under the seal of the board certifying that a loan has been made under the principal Act or this Act, and the amount thereof, and the annual amount of rentcharge payable in respect thereof, and the lands, hereditaments, and premises charged therewith, and the annual amount of fire insurance premiums or other moneys payable in respect of the premises the subject of such loan, and the amount due in respect of such rentcharge, premiums, and moneys respectively, shall be conclusive evidence in all judicial proceedings of the matters therein certified.

Power to redeem rentcharge.

13. Any ecclesiastical person entitled to occupy any lands, buildings, or premises in respect of which any loan may have been made subject to any such rentcharge as aforesaid shall be at liberty, at any time before the expiration of the period for which such rentcharge shall be payable, to redeem the same, on payment to the board of the arrears, if any, thereof, and of such sum as shall be equal to the value of such rentcharge, to be ascertained by the said board, and upon the expiration or redemption of such rentcharge, and on payment of all premiums or other moneys payable in connexion therewith, and of all costs, charges, and expenses (if any) incurred in any proceedings to recover the same, the board shall execute under their seal and deliver to such ecclesiastical person a certificate stating that all moneys chargeable upon such lands, buildings, and premises have been paid, and the board shall also execute a duplicate certificate to the like effect, and the board shall cause such duplicate certificate to be registered in the like manner as the order hereinbefore mentioned in the office for the registry of deeds in the city of Dublin, and for which registration no fee shall be payable, and upon the execution and delivery of such certificate the lands, buildings, and premises so mentioned therein shall be released from all liability in respect of such loan.

Sect. 10 of principal Act repealed.

14. The tenth section of the principal Act is hereby repealed, and in lieu thereof it is hereby enacted, that no loan under the provisions of the principal Act or this Act shall be made after the thirty-first day of August which will be in the year one thousand eight hundred and seventy-five.*

SCHEDULE.

“The GLEBE LOAN (IRELAND) ACTS, 1870 and 1871.”

Charging Order.

Whereas under the provisions of the above-mentioned Acts the Commissioners of Public Works in Ireland have made a loan of the sum of £ upon the application of in the county of for the purpose of

Now we the said Commissioners do hereby order and declare that the lands, hereditaments, and premises to be charged with the said loan are as follow; that is to say, situate in the parish of barony of in the county or county of the city of

In witness whereof we the said Commissioners of Public Works in Ireland have hereunto and to a duplicate hereof affixed our common seal, this day of in the year of our Lord 187 .

* Period extended to 31st August, 1878, by 2nd section of 38 & 39 Victoria, cap. 39.

V.—THE GLEBE LANDS (IRELAND) ACTS.

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(a) "THE LEASING POWERS AMENDMENT ACT FOR RELIGIOUS PURPOSES IN IRELAND, 1875."

38 & 39 VICTORIA, CAP. 11.

An Act to enable limited Owners to grant or demise Lands for Glebes in Ireland.*

[13th May, 1875.]

WHEREAS it is expedient to extend the benefits of the "Leasing Powers Act for Religious Worship in Ireland, 1855," to the late Established Church of Ireland, hereinafter described as the "said Church:"

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 :

1. This Act may be cited for all purposes as "The Leasing Powers Amendment Act for Religious Purposes in Ireland, 1875," and this and the said before-mentioned Act of 1855† shall be read together as one Act.

2. The term "lessee" shall include the Representative of the said Church.

3. The said Leasing Powers Act for Religious Worship in Ireland, 1855, shall, as hereby amended, be held and construed to extend to the said Church, and all the rights, powers, privileges, and liabilities in said Act contained in reference to congregations not belonging to the late Established Church of Ireland shall be deemed and held to apply and are hereby extended to the said Church, so far as the nature of the case may permit.

4. Where any lease or grant shall have been made before the passing of this Act for any of the purposes in this Act mentioned, and for a period less than the term for which a lease may be made under this Act, it shall be lawful for the person enabled to make a lease of such land under this Act to accept a surrender of such existing lease or grant, and make a new lease under this Act of the same land, or of the same land and any other land in conjunction therewith; provided that the entire quantity comprised in such new lease shall not exceed five acres.

5. This Act shall extend to Ireland only.

* This Act was passed in consequence of "The Irish Church Act, 1869," having rendered inoperative the provisions of the Ecclesiastical Residences Act of 1851 (14 & 15 Vic., c. 73), which enabled "Ecclesiastical Persons" connected with the late Established Church of Ireland to acquire glebes up to 26th July, 1869.

† See Act of 1855 on next page.

Extent of Act.

Surrender of certain leases or grants may be accepted, and new lease made.

Leasing powers &c. Act extended to Protestant Episcopal Church in Ireland.

The following is the statute cited in the foregoing Act, entitled:—

“THE LEASING POWERS ACT FOR RELIGIOUS WORSHIP IN IRELAND, 1855,” now incorporated with “THE LEASING POWERS AMENDMENT ACT FOR RELIGIOUS PURPOSES IN IRELAND, 1875.”*

18 & 19 VICTORIA, CAP. 39.

An Act to facilitate Grants of Lands and Tenements for the Purpose of Religious Worship and other Purposes connected therewith. [26th June, 1855.]

WHEREAS many congregations of persons not belonging to the Established Church in Ireland have been and are in many cases prevented from erecting suitable buildings for religious worship, and for the residence of their clergymen, ministers, and pastors, and schoolhouses for the education of their children, and from providing suitable burial-grounds, by the difficulty of obtaining leases of land of sufficient duration for such purposes, and in many cases have been obliged to use for the purposes aforesaid lands granted or demised for terms of short or uncertain duration, and it is expedient that tenants for life and other persons having limited interests in lands should be enabled for the purposes aforesaid to make grants or leases for any period not exceeding the estate or interest out of which such limited interest is created, and to accept surrenders of and convert into leases for such extended period any leases of short or uncertain duration already made for such purposes or any of them: 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:

Interpreta-
tion of terms.

1. In the construction of this Act the words “Grantor” or “Lessor” shall extend to a body politic, corporate, or collegiate, making grants or leases:

The word “Lessee” shall include the personal representatives of any lessee and his lawful assigns:

The word “person” shall include any body politic, corporate, or collegiate:

The expression “perpetual interest” shall comprehend, in addition to any greater interest, any estate for one or more than one life, with or without a term for years, or for years, whether absolute or determinable on one or more than one life, with a covenant or agreement by a party competent thereto for perpetual renewal:

The expression “successors in estate” shall extend to and include the persons entitled for the time being after the lessor to the actual receipt of the rents and profits of the lands comprised in the lease, under the same title, settlement, or will with the lessor, or under the exercise of any power affecting such title or continued in such settlement or will, and who but for the making of the said lease would be entitled to possession of the lands, or to the possession subject to any other existing lease or tenancy:

The word “entitled” shall mean entitled either legally or equitably:

* See note to 38 & 39 Vic., c. 11, *ante*, page 71.

N.B.—*Vide* special powers given to trustees of the Presbyterian Church in Ireland to hold land for mansees, &c., by the Act 34 Victoria, cap. 24, sec. 14, *ante*, page 59.

The word "settlement" shall include every assurance or connected set or series of assurances, whether by deed, will, private Act of Parliament, or otherwise, by which lands are or shall be limited in a course of settlement, or agreed so to be.

2. In citing this Act in any instrument, document, proceeding, or Act of Parliament, it shall be sufficient designation to use the expression, "The Leasing Powers Act for Religious Worship in (Ireland), 1855."

With respect to the persons hereby empowered to make leases:

3. Every person hereinafter described entitled in possession to any estate or interest hereinafter named in lands in Ireland, or to the receipt of any rents and profits thereof, whether or not such estate shall be subject to any mortgage or other incumbrance (provided the incumbrancer shall not be in possession) shall have power to make leases of any part of the said lands, (other than the mansion house and demesne lands or parks, plantations, gardens, orchards, or pleasure grounds and appurtenances belonging to or usually occupied with such mansion house,) and not exceeding in the whole five acres, for the purposes and periods of time, and subject to the rents, rights of apportionment of rent, covenants, and conditions herein stated; (that is to say,)

Power to make leases of land of not more than five acres for religious purposes.

- (1.) Her Majesty the Queen and her successors; the Commissioners of Her Majesty's Woods and Forests in respect of lands situate in the kingdom of Ireland:
- (2.) Tenants in fee-simple or fee-farm, or seised of any other perpetual estate subject to any mortgage or incumbrance:
- (3.) Tenants in tail or quasi-entail of an estate of inheritance or perpetual interest:
- (4.) Tenants for the term of their own lives, not being jointresses, or for the life or lives of any other person or persons, or for so many years as they may live, or any partial owner, for an unexpired term of years not being less than sixty years in its inception, and whether absolute or determinable on a life created out of an estate of inheritance or perpetual interest by any settlement, and not in consideration of or subject to any rent reserved thereby:
- (5.) Married women entitled to any estate specified in numbers (2), (3), or (4) for their separate use, and whether restrained or not from anticipation:
- (6.) Tenants by the courtesy of England:
- (7.) Husbands seised in right of their wives, or by entireties with their wives, provided that the wife is entitled to any such estate as is specified in Number (2), but whether subject to any incumbrance or not, or in Numbers (3) or (4), and shall be a consenting and executing party to the lease, not being under age:
- (9.) Corporations lay, eleemosynary, and collegiate, whether aggregate or sole: Provided, that no lease made by any municipal corporation or Board of Guardians of the poor shall be valid without the licence in writing in the case of a municipal corporation of the Commissioners of Her Majesty's Treasury, and in the case of such Board of Guardians of the poor of the Poor Law Commissioners for Ireland, such licence to be written on or annexed to the said lease:
- (10.) Trustees and feoffees of charitable uses of a public nature, and seised or possessed of an estate in fee-simple, fee-farm, or other perpetual interest:
- (11.) Trustees under any will or settlement entitled in fee-simple or for a perpetual interest or to any estate specified in Number (4), and having a power to sell the same: Provided, however, that when

such power is to be exercised with the consent of any person no such lease shall be valid without such consent.

And with respect to cases of disability of parties otherwise entitled to make leases :

In cases of disability of parties, guardians, &c. may make leases.

4. In case any person (not being a trustee or feoffee of charitable uses of a public nature) who would be entitled to make leases under this act or otherwise shall happen to be under any of the following disabilities or incapacities, the power shall be exercised in his or her name and on his or her behalf in the following manner : If under the age of twenty-one years by his or her guardian appointed by will or settlement, or by the Court of Chancery ; and if such person have no guardian, it shall be lawful for the Court of Chancery in Ireland, on petition in a summary way, to appoint a guardian of such person under age, for the purpose of executing any lease under this Act, in the manner aforesaid, and to change him from time to time, and the power shall be executed by the guardian so appointed : If lunatic or idiot, or *non compos mentis*, by the committee of the estate ; and if there shall be no committee of the estate, or no inquisition finding such person idiot or lunatic, it shall be lawful for the Court of Chancery in Ireland, by petition in a summary way, to appoint a guardian of such person, for the purpose of executing any lease under this Act, and to change such guardian from time to time, and the power shall be executed as aforesaid by the guardian so appointed : Provided always, that no lease made under this Act of the estate of any person under age or of unsound mind or *non compos mentis* shall be valid without the consent of the Court of Chancery, to be obtained in a summary manner by petition to the said Court of Chancery by any party interested thereon.

The purposes and periods of time for which leases may be made under this Act shall be as follows :

Forms of leases under this Act.

5. A lease made by a person empowered by this Act may be made of any quantity of land, not exceeding in the whole five acres, for a site for a place of worship for such congregation, and for the residence of their clergymen, ministers, or pastors, and for the erection of a school or schools and school-accommodation in connexion therewith, and for a burial-ground for the interment of its deceased members, or for any one or more of such purposes, and such leases may be made in fee-farm, or for any term not exceeding nine hundred and ninety-nine years.

Provisions as to leases made previous to the Act.

6. Where any lease or grant shall have been made before the passing of this Act for any of the purposes aforesaid, and for a period less than the term for which a lease may be made under this Act, it shall be lawful for the person enabled to make a lease of such land under this Act to accept a surrender of such existing lease or grant, and make a new lease under this Act of the same land, or of the same land and any other land in conjunction therewith, provided that the entire quantity comprised in such new lease shall not exceed five acres.

Rent reserved in any lease to be the best improved rent.

7. The rent reserved in any lease made under this Act shall be the best improved rent that at the time of making such lease can be obtained or reasonably expected from a solvent tenant without fine or consideration of any kind : Provided always, that in case of the surrender of an existing lease, and the grant of a new lease, of the same land, under Section 6, the value of any buildings, erections, or improvements on said lands theretofore made for any of the purposes aforesaid shall not be taken into account in estimating the rent to be reserved in such new lease.

Conditions

8. Every lease made under this Act shall specify the purposes for

which it shall be made, and shall imply the following covenants, conditions, and agreements on the part of the lessee, his heirs, executors, and administrators, with the lessor, his executors, administrators, and successors in estate, and the same shall be as effectual and binding as if they were expressly inserted in such lease :

&c. of leases to be specified.

That the lessee shall pay, when due, the rent reserved, and all taxes and impositions payable by the tenant :

That the lessee shall repair, maintain, and keep the demised premises during the term in good and substantial repair, with all buildings, fixtures, and improvements :

That the demised premises shall be applied for no other purposes than those expressed in the lease, or of the like nature, and in default thereof it shall be lawful for the lessor and his successors in estate to re-enter :

That in case the said lands shall not be used for any of the purposes expressed in said lease for a period of three years, it shall be lawful for the lessor and his successors in estate to re-enter :

That it shall be lawful for the landlord and his agent at all reasonable times to enter on and inspect the premises :

Also to re-enter in case of any unlawful assignment or subletting.

9. The rents reserved and the covenants and conditions contained or implied in any lease made under this Act shall enure to the persons who for the time being would, if such lease had not been made, be entitled to the actual possession of the lands comprised in the said lease, or to the receipt of the rents and profits thereof, according to their estates and interests therein.

Reserved rent and covenants of lease to enure to proper owner.

10. Every lease made under this Act shall be by indenture sealed and delivered by or on behalf of the lessor in the presence of one or more than one witness, and a counterpart of every such lease shall be executed by the lessee thereof.

Lease to be by Indenture.

And with respect to the force and efficacy of leases to be made pursuant to this Act, be it enacted as follows :

11. Every lease made pursuant to the provisions of this Act shall be valid and effectual to bind the lessor, his heirs, executors, administrators, assigns, and successors in estate, and all persons whomsoever deriving under the same title or settlement as that under which the lessor derives, and notwithstanding any entail, law, or custom to the contrary, and whether there be any leasing power annexed or belonging to the estate of such lessor, but so as not to prejudice or interfere with any other power of leasing to him belonging.

Lease to be binding on lessor, his heirs and successors in estate.

12. Where any lease made in the intended exercise of any supposed leasing power conferred by this or any other Act of Parliament, or by any settlement, shall be invalid by reason of the lessor not having at the time power to make such lease, and the estate of such lessor in the lands comprised in such lease shall have continued or shall have accrued and continued until after such lease might have been lawfully granted, such lease shall take effect out of such estate, and be as valid as if it had been granted at such last-mentioned time, provided such lease had not been then already surrendered or relinquished.

Informality in proceedings not to affect the lease.

13. Where any lease shall be made by a lessor having a power of leasing the lands comprised in such lease, and such lease cannot take effect or have continuance independently of such leasing power, every such lease shall take effect and be as valid as if the same were intended and had been expressed to have been granted in exercise of the said power, although such power be not referred to.

Lease, in virtue of power, valid though not expressed.

(b) "THE GLEBE LANDS REPRESENTATIVE CHURCH BODY (IRELAND) ACT, 1875."

38 & 39 VICTORIA, CAP. 42.

An Act to enable certain Corporate Bodies to hold Land for Glebes in Ireland. [19th July, 1875.]

WHEREAS by the Irish Church Act, 1869,* it was, amongst other things, enacted that the union between the Churches of England and Ireland should be dissolved, and that the said Church of Ireland, in the said Act and hereinafter referred to as the "said church," should cease to be established by law:

And whereas in pursuance of the said Act Her Majesty was pleased to incorporate by Royal Charter† the representative body of the said church, under the name of the Representative Church Body:

And whereas it is expedient to extend to the said church and the said Representative Church Body the same powers and privileges which are possessed by other religious bodies in Ireland in reference to the purchase, holding, and selling of land:

And whereas many clergymen in Ireland are prevented from obtaining suitable residences in consequence of not being able to enter into valid contracts whereby they may deprive themselves of the right to make claims under the Landlord and Tenant (Ireland) Act, 1870, and it is expedient to alter the law in that respect:

And whereas it is expedient to give to the said Representative Church Body the same right to recover compensation for malicious injuries to churches legally vested in them, which, before the passing of the said Church Act, was possessed by the Ecclesiastical Commissioners for Ireland:

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:

Title of Act. 1. This Act may be cited for all purposes as "The Glebe Lands Representative Church Body, Ireland, Act, 1875."

Power to invest funds in purchase, &c., of lands for glebes, &c., not exceeding thirty acres for each church. 2. It shall be lawful for the said Representative Church Body to invest all moneys vested in them for that purpose in the absolute purchase, or in procuring leases or fee-farm grants subject to annual or other rents, and with or without fines, of lands for the erection thereon of churches, or of glebes for the use of the clergymen of said church, or for schools or other buildings in connexion with said church buildings, or for other church purposes, the lands so to be purchased not to exceed thirty acres for each glebe, or to permit such clergymen and congregations to occupy and use the same at such rent and upon such terms and conditions as the Representative Church Body shall think fit; and the Representative Church Body may execute all such deeds, grants, leases, or other documents as may be necessary for the purpose aforesaid.

Power to vest colleges, church buildings, &c., in trustees. 3. It shall be lawful for the trustees of any college, church building, school-house, glebe, or other real property, whether freehold or chattel, or any personal property held in trust for the said church or any congregation in connexion therewith, or any person or persons in whom the same may be vested, if they or he respectively shall think fit, to grant, assign, or otherwise vest in the said Representative Church Body, with their concurrence, such college, church building, school-house, glebe, or

* See Act, *ante*, page 1.† See Charter, *post*, page 169.

other real property, whether freehold or chattel, or any personal property, to be held by the said Representative Church Body upon such trust and subject to such rights as at the time of such grant, assignment, or vesting affected the same respectively, and the former trustees shall be thereupon released from the trusts thereof respectively.

4. It shall be lawful for any person whomsoever, entitled so to do, to give, grant, devise, bequeath, or assure, by any deed, will, or other instrument sufficient in law to create or convey an estate therein, any messuages, lands, hereditaments, or any estate therein, to the said Representative Church Body for any college, or for any church, glebe, building, or school-house in connexion with any congregation or church: Provided always, that under the provisions aforesaid or otherwise not more than thirty acres shall be held in trust for any congregation, nor more than one hundred acres in trust for any college: Provided always, nevertheless, that any such gift, grant, bequest, or assurance of lands in excess of the acreage hereby authorized to be held as aforesaid shall be void as to the excess only.

Power to hold lands for colleges &c.

5. The said Representative Church Body may from time to time sell, lease, exchange, or otherwise dispose of, on such terms and in such manner as they think fit, or mortgage, any lands vested in them, and not being otherwise required for purposes of the said church or any of the colleges or congregations connected therewith, and may enter into, execute, and do all contracts, assurances, and things necessary or proper in that behalf; and every such sale or lease as aforesaid may be made either absolutely for a sum in money, or for any annual rent or rents, to be made payable as the said Representative Church Body direct, or partly for a sum of money and partly for such rent or rents as aforesaid, as the said Representative Church Body think fit, and the said Representative Church Body may afterwards sell any rent so to be made payable.

Power to sell surplus lands.

6. It shall be lawful for any ecclesiastical person to make and enter into a good and valid contract with any lessor for the occupation of any glebe house and lands, although by such contract such ecclesiastical person may be deprived of his right to make any claim under any of the sections or provisions of the Landlord and Tenant (Ireland) Act, 1870, any restriction or provision in the said Act to the contrary notwithstanding.

Ecclesiastical persons can contract themselves out of Landlord and Tenant (Ireland) Act, 1870.

7. In section seventy-two of Act third and fourth William the Fourth, chapter thirty-seven, and section twenty of fourth and fifth William the Fourth, chapter ninety, the words "United Church of England and Ireland" shall be held and construed as applying to "the said church" alone, and the said Acts shall be construed as if the words "Representative Church Body" had been and were substituted for the words "Ecclesiastical Commissioners," and the said sections of the said Acts so altered shall be and continue in full force and effect.*

Amendment of Acts 3 & 4 W. 4, c. 37, s. 72, and 4 & 5 W. 4, c. 90, s. 20.

8. The term "glebe" in this Act shall mean and include any house, with the piece or parcel of land attached thereto, occupied or to be occupied by any ecclesiastical person while having spiritual charge of any parish or district to which such house and land shall have heretofore belonged, or for which it shall be or shall have been granted or purchased or required as a residence for such ecclesiastical person whilst having such spiritual charge; and the term "ecclesiastical person" shall mean and include any archbishop, bishop, and clergyman of the said church.

Glossary.

9. This Act shall extend to Ireland only.

Application of Act.

* See Sections of Statutes cited, on following pages; also Section 11 of "The Irish Church Act, 1869," *ante*, page 5.

Extracts from Statutes referred to in the seventh section of the foregoing Act :—

3 & 4 WILLIAM IV., CAP. 37.

“SECTION LXXII.

Judge or
Judges of
Assize, &c.,
may grant com-
pensation for
malicious
injury or
damage to
churches, to
be levied
by Grand
Jury pre-
sentment.

“And be it further enacted, That if any church, chapel, or other building used for religious worship according to the usage of the *United Church of England and Ireland* shall be maliciously or wantonly demolished, pulled down, burned, or set fire to, or in any manner maliciously or wantonly injured or damaged, it shall and may be lawful for the said *Ecclesiastical Commissioners*, or any person or persons to be by them deputed in that behalf, by writing under their common seal, to sue for and recover satisfaction and amends for such malicious or wanton demolition, burning, firing, or injury or damage as aforesaid, at the next assizes to be held for the county in which such church, chapel, or other building may be situate, or if in the county of Dublin, at the next presenting term, or if in the city of Dublin, at the next quarter sessions for the said city, by exhibiting to the judge or judges of assize, or to the Court of King's Bench for the said county of Dublin, or to the recorder of the city of Dublin if at such quarter sessions, a petition, praying such satisfaction and amends as aforesaid, and therein setting forth particularly the injury or damage done or committed, and the particular amount and nature thereof, by what number of persons such injury or damage was done or committed, and the names or descriptions of such offenders, so far as the same shall be known to the petitioners; and the matter of such petition shall be inquired into by such judge or judges of assize, or Court of King's Bench, or recorder, in open court in the presence of the grand jury impannelled and sworn at such assizes or presenting term or sessions, on the oath of such person or persons as may be produced to testify as to the same; and if on consideration of the matter such judge or judges of assize, or recorder, shall be of opinion that such demolition, burning, firing, or other injury or damage was wantonly or maliciously done, such judge or judges shall inquire into the amount of such injury or damage done or committed as aforesaid; and the said grand jury shall thereupon, and they are hereby required, pursuant to the directions of such judge or judges, Court of King's Bench, or recorder as aforesaid, to present such sum or sums of money as shall appear to be the amount of the injury or damage committed as aforesaid, to be raised either on the county, county of a city or town, barony, town or towns, parish or parishes, in or near which such offence shall have been committed, and in such proportions as they shall think fit; which sum or sums so presented as aforesaid shall be apportioned, levied, and raised by such ways and means and in such form or manner as other public money presented at the said assizes, or presenting term, or sessions; and such moneys shall be paid to the said Commissioners, or to the person or persons by them deputed as aforesaid, and be by such *Commissioners* applied to rebuild or repair such church, chapel, or other building, and be for such purpose expended by such person or persons in such manner and subject to such regulations and security for the due application thereof as they shall think fit: Provided that if any person or persons shall find himself, herself, or themselves aggrieved by any presentment to be made in pursuance of this Act, such person or persons, in case the sum so presented do exceed the sum of five pounds, shall or may, at the said assizes, or presenting term, or sessions, traverse the same; which traverse shall be tried at

Traverse of
Presentment
above £5 to
be tried at
same or next
Assizes.

“ the same or next ensuing assizes, presenting term, or sessions, as the judge or judges who shall allow the same shall think fit; and if on such traverse the issue shall be found for the traverser, such presentment shall be discharged, otherwise the same shall be final and conclusive to all persons; and in case the said issue shall be found against the traverser, it shall and may be lawful to and for the judge before whom the same shall be tried, in case he shall see fit, to award the costs thereof to be paid by the traverser, to be taxed and certified by the clerk of the crown, the payment whereof may be enforced, if necessary, by a summary order of His Majesty's Court of King's Bench in Ireland: Provided always, that the said Commissioners, or the person or persons by them deputed as aforesaid, or the rector, curate, or other officiating minister, or, in case of vacancy of the benefice, any two inhabitants of the parish, within thirty days after such offence shall have been committed, shall give notice thereof to the high constable of the barony and to the churchwardens of the parish where such offence shall have been committed (if such high constable or churchwardens shall respectively reside within such barony and parish), who are hereby required forthwith to publish the same within such barony and parish; and if such high constable or churchwardens shall not reside therein as aforesaid, then such notice shall be given to some two inhabitants of such barony or parish.”

Notice thereof to be given within ten days after offence committed.

4 & 5 WILLIAM IV., CAP. 90.*

“ SECTION XX.

“ And be it further enacted, that in case any such wanton and malicious injury or damage as in the said recited Act mentioned† shall be committed in or to any church, chapel, or other building used for religious worship according to the usage of the *United Church of England and Ireland*, it shall and may be lawful for the said *Ecclesiastical Commissioners*, or any person or persons to be by them deputed in that behalf, by writing under their common seal, to sue for and recover satisfaction and amends, pursuant to the provisions of the said recited Act, for such wanton and malicious injury or damage, either at such period or periods as in and by the said recited Act for that purpose provided, or at the second assizes to be held after the commission of such injury or damage for the county in which such church, chapel, or other building may be situate, or if in the county of Dublin, at the second presenting term; or if in the city of Dublin, at the second quarter sessions respectively after the commission of such injury, and that all powers and provisions contained in the said recited Act, applicable to the suing for or recovery of such satisfaction at the next assizes, presenting term, or quarter sessions respectively, shall extend and be applicable to the suing for and recovery of such satisfaction and amends at such second assizes, presenting term, or quarter sessions respectively.”

Compensation for malicious injuries to churches may be recovered either at the next or at the second Assizes after commission of the injury.

* Section 20 of this Act, and Section 72 of Act 3 & 4 William IV., cap. 37, are continued in full force and effect, subject to the alterations made therein by Section 7 of the Act 38 & 39 Victoria, cap. 42, ante, page 77.

† *Id.* 3 & 4 Wm. IV., cap. 37.

VI.—“THE PAROCHIAL RECORDS ACT, 1875,” or “THE PUBLIC RECORDS (IRELAND) ACT, 1867, AMENDMENT ACT, 1875.”

38 & 39 VICTORIA, CAP. 59.

An Act to amend the Public Records (Ireland) Act, 1867,* and to make provision for keeping safely Parochial Records in Ireland. [11th August, 1875.]

WHEREAS the parish records and registries of baptisms, marriages, and burials, and other parochial records, books, and documents in the several parishes in Ireland are under the care of several persons, and many of them are kept in unfit and unsafe buildings:†

And whereas doubts have arisen as to whether the said several records, registries, and parochial documents are public records within the meaning and for the purposes of the “Public Records (Ireland) Act, 1867”:

And whereas it is expedient to provide for the safe custody of the said records, registries, and parochial documents by the transfer thereof to the Public Record Office of Ireland, and to make such other provisions in relation thereto as are in this Act contained:

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:

Short title.

1. This Act may be cited for all purposes as The Public Records (Ireland) Act, 1867, Amendment Act, 1875.

Extent of Act.
Construction of Act.
Interpretation.

2. This Act shall extend to Ireland only.

3. The Public Records (Ireland) Act, 1867, and this Act shall be read and construed together as one Act.

4. In this Act—

The expression “parochial officer” shall be taken to mean any rector, vicar, curate, parish clerk, or other parish officer of the Church of Ireland, holding such office on the thirty-first day of December one thousand eight hundred and seventy, and any person who after the said date discharged, or at the present time discharges, or who may hereafter discharge duties similar or analogous to the duties which such parochial officer then discharged:

The term “record” shall mean any diocesan or parochial record, minute of proceedings, paper, book, document, or registry, of or relating to any baptism, marriage, burial, or ordination, or other diocesan or parochial matter of a public nature, which, on the thirty-first day of December, one thousand eight hundred and seventy, was in the possession or custody of any parochial officer:

The expression “Master of the Rolls” shall mean the Master of the Rolls for the time being in Ireland:

The expression “Record Office” shall mean the Public Record Office of Ireland.

Records to be in custody of the Master of the Rolls.

5. Every record shall, from and after the passing of this Act, be under the charge and control of the Master of the Rolls, in the name and on

* “The Public Records (Ireland) Act, 1867,” established the new Public Record Office, and placed the Records named in that Act under the charge and superintendence of the Master of the Rolls.

† No provision was made in “The Irish Church Act, 1869,” for these classes of records. See 47th section, *ante*, page 32.

behalf of Her Majesty, her heirs and successors, subject to the provisions relating to their care and custody hereinafter contained.

6. Any record which on the thirty-first day of December, one thousand eight hundred and seventy, was in the custody and care of a parochial officer shall continue in the custody and care of such person, provided that he now continues, and so long as he shall hereafter continue, to discharge the same or similar duties in the church or chapel or parish with which such record was connected. As to all other records, and also as to the said records, when such parochial officer shall cease in such church or chapel or parish to discharge the said duties, the Master of the Rolls shall, as soon as conveniently may be, issue warrants directed to the several persons having the care of any record or records, ordering such persons to allow the same to be removed from its or their present place of custody, and deposited in the Record Office; and every such warrant shall be kept among the public records in the custody of the Master of the Rolls, and shall be a sufficient warrant for the removal of such record or records as shall be specified therein.

Custody and removal of records.

7. In case, since the thirty-first day of December one thousand eight hundred and seventy, entries of marriages, baptisms, burials, or other matters shall have been continued in the same book which had been in use for the purpose before the said date, it shall be lawful for the Master of the Rolls to make a special order in relation to such book, and thereby to authorize the custody and care of such book to be retained by any person whom he shall by such order authorize, and such person shall on accepting such custody and care be bound to take care thereof.

Custody of books of marriages, baptisms, and burials.

8. The removal of any record to the Record Office, by authority of the Master of the Rolls, shall not in any manner affect the authenticity or legal validity of such record; but any such record deposited in the Record Office, and there kept under the authority of the Master of the Rolls, shall be taken to be in its legal place of deposit, and every such record removed as aforesaid shall be of the same legal validity in all courts and proceedings in the same manner as if such record had not been removed.

Validity of records after removal.

9. The Master of the Rolls or Deputy Keeper of the Records may allow copies to be made of any of the said records at the request and costs of any person desirous of procuring the same; and any copy so made shall be examined and certified as a true and authentic copy by the Deputy Keeper of the Records, or by the Assistant Deputy Keeper of the Records, and shall be sealed or stamped with the seal of the Record Office, and delivered to the party for whose use it was made.

Power to make authentic copies of records, which shall be sealed.

10. Every copy of a record in the custody of the Master of the Rolls, certified as aforesaid, and purporting to be sealed or stamped with the seal of the Record Office, shall be received as evidence in any court of justice, and before any legal tribunal, and before either House of Parliament, or any committee of either House, without any further or other proof thereof, in every case in which the original record could have been received there as evidence.

Such copies, sealed with the seal of the Record Office, to be received in evidence.

11. Until removal to the Record Office pursuant to the provisions of this Act, every record shall remain in the custody and care of the parochial officer with whom it is at the time of the passing of this Act, and such officer shall, during such time, be bound to take care of same.

Record to remain in present custody until removed.

12. Every parochial officer shall be bound to return to the Master of the Rolls a complete and true inventory of all records in his possession, custody, or care, in such form as the Master of the Rolls shall direct, within three months after he shall be directed so to do.

Parochial officers to make inventories.

Notices to be given in certain cases by parochial officers, and notice of deaths of parochial officers to be given by registrars of deaths.

13. Every parochial officer having the custody and care of any record shall, if at any time during his life he ceases to discharge his duties in the church or chapel or parish with which such record was connected, give notice thereof to the Master of the Rolls; and every registrar of deaths in Ireland, on receiving notice of the death of any parochial officer, shall forthwith transmit by post to the Master of the Rolls a certificate under his own hand of such death, with the particulars of the time and place of death, and on receipt of such certificate the Master of the Rolls shall transmit to the said registrar of deaths the cost of such certificate and transmission.

Expenses of Act.

14. All expenses incurred by or by order of the Master of the Rolls in the execution of this Act shall be paid out of moneys to be provided by Parliament for such purposes.

Violation of the provisions of the Act a contempt.

15. If any parochial officer shall neglect to furnish such inventory when so required, or do any other act in violation of the provisions and directions of this Act, he shall be guilty of contempt, and shall and may be proceeded against by order of the Master of the Rolls as if he had disobeyed a judicial order made by him in a cause.

PART III

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I.—DECISIONS AFFECTING RIGHTS OF PROPERTY.

RIGHT of COMMISSIONERS to RECEIVE ECCLESIASTICAL TAX (heard by Viscount MONCK and Mr. Justice LAWSON, the 22nd December, 1870).

In re The PRIMATE of all IRELAND, Appellant.

Dr. Ball, q.c., m.p., with Dr. Todd, q.c., and Mr. Dobbyn, appeared on behalf of his Grace the Lord Primate, to show cause against a conditional order made by Mr. Justice Lawson directing payment by the appellant of ecclesiastical tax levied on his income as Archbishop of Armagh. Counsel observed that the order in question dealt with two amounts, but the question which he proposed bringing before the Commissioners was confined entirely to the tax on the clerical income for the year 1870. The only section in the Irish Church Act affecting that was the 11th, and a few words in the interpretation clause referring to that. The section to which he alluded provided that "from and after the passing of the Act all property, real and personal, at the date of such passing vested in or belonging to the Ecclesiastical Commissioners for Ireland, is transferred to and vested in the Commissioners appointed under this Act, subject to all tenancies, charges, incumbrances, rights (including tenants' rights of renewal), or liabilities affecting the same, and the corporation of the Ecclesiastical Commissioners for Ireland is hereby dissolved;" and by the interpretation the word property was defined to include "things in action and rights of action," so that the whole question at issue was whether this impost could come under that. He contended that it did not, and referred to the Act (3 & 4 Wm. IV. c. 37), imposing the tax, or authorizing the late Commissioners "to have, take, levy, and receive" out of certain benefices an "annual tax, rate, or assessment," to show that they enjoyed a corporate existence with specific obligations and privileges.

By various sections of the Church Temporalities Acts several rights were given—to take valuations of benefices, to require returns of income from the clergy, to proceed at law for recovery of arrears, &c., and certain of these acts had to be proceeded with on a specified form of certificate, bearing a corporate seal. Now, in the whole of the recent Act there was no right conferred on the Commissioners to levy this tax, and Counsel contended, it could not be covered by the word "property," which had never yet been taken to include the analogous case of vestry taxes. Again, it was contended that it would take special words to carry this special power, and these, Dr. Ball submitted, could not be supplied. There being, therefore, no power to enforce this tax, he thought the order should be reversed, notwithstanding the fact that the Commissioners had ruled* the tax to be a legal outgoing when estimating the annuities to be paid under 14th section after 1st January, 1871.

Mr. Law, q.c., with whom was Mr. M. J. Barry, appeared for the Crown, and argued that the tax was established by the Irish Church Act, the word "property" having been always considered sufficiently comprehensive to embrace perpetual charges, under which class the tax in question, being a perpetual one, came

Judgment having been reserved was delivered on 23rd December, 1870.

Mr. Justice LAWSON said—A question of considerable importance has

* See *In re* Rev. W. S. King, *post*, page 98.

been argued before us in this case, viz., the right of the Commissioners to receive and enforce the tax payable by archbishops and bishops to the late Ecclesiastical Commissioners, under the 3 & 4 Wm. IV., c. 37. The 11th section of the Irish Church Act transfers to the Commissioners all property, real and personal, at the date of the passing of the Act vested in and belonging to the Ecclesiastical Commissioners, subject to all liabilities affecting the same. The word "property" is a term of the largest comprehension, and in constructing wills and other instruments has always been held, unless controlled or restrained by other expressions, to pass everything belonging to the person making the disposition. The word must receive, at least, as full a meaning when used in an Act of Parliament; and, therefore, the question is whether the annual tax and its proceeds were property belonging to the Ecclesiastical Commissioners. This tax appears to have produced to the Ecclesiastical Commissioners £18,000 a year, and, in addition to it, were two annual charges, fixed in amount—one on the see of Derry, of £6,000, and one on the see of Armagh, of £4,500, which by the 54th sec. of the former Act, are "to be applied to such and the like purposes as the proceeds of the tax hereby vested in the said Commissioners."

The 63rd section of the Act 3 & 4 Wm. IV., c. 37, directs the application of the property vested in the Ecclesiastical Commissioners for Ireland in these words:—"All and every the rents, issues, and property of all lands, tenements, and hereditaments, and the said annual tax and the proceeds thereof, and all and every sum and sums of money and securities for money vested in the Commissioners, &c., shall be applicable for the purposes following." How it is possible, therefore, to contend that the right to receive this tax was not property, vested in the Commissioners upon special trusts, I confess I am at a loss to understand. The application directed by that section is—"The providing church requisites, the payment of salaries of clerks and sextons, the building and repair of churches." The 11th section of the Irish Church Act transfers all that property, with its liabilities, to the Commissioners of Church Temporalities in Ireland, and if the Act stopped there, they would have been bound always so to apply the funds; but the Act, carrying out its policy of preserving life interests only, makes the Commissioners liable to pay the salaries of clerks and sextons for their lives, but prohibits them from paying such as were appointed after the passing of the Act, and limits the time and the extent to which they were to supply church requisites and repair and rebuild churches.

The manifest intention of the Act was to transfer to the Commissioners everything which the Ecclesiastical Commissioners had. The words used are capable of bearing that meaning, and we are asked to give a narrow and forced construction to them, in order to defeat the plain intention of the Legislature, and to give back that £18,000 a year to the holders of benefices, although the Act intended only to preserve, not to augment their life interests in the revenue they were actually enjoying at the time of the passing of the Act. It is said that there was nothing vested in the Ecclesiastical Commissioners at the time of the passing of this Act except the tax then due or any arrears of it, and this argument, if at all sound, would be equally effectual to show that the future gales of the fixed charges of £6,000 and £4,500 on the sees of Derry and Armagh were not capable of being enforced, but merged in the revenue of those sees. This, however, was not contended for, and the argument rested mainly upon the variable nature of this impost. A right to receive and levy out of the see of Armagh a fixed sum each year is "*property*." Does such a right cease to be property because the amount, instead of

being fixed, is a per-centage on the value of the see in each year? If a man had, under a deed, a right to receive for a certain time, out of the earnings of a partnership firm, a certain per-centage on the profits, could it be said that such a right did not pass under a bequest of all his property?

The right of the Ecclesiastical Commissioners, under the 14th section of 3 & 4. Wm. IV., c. 37, was to have, take, levy and receive therefrom and thereout, from and after the times when benefices shall become void after the passing of the Act, and for ever thereafter, a yearly tax, rate, or assessment, computed and imposed upon such valuation according to the rates and scales specified in the Schedule A. The Commissioners are to make a valuation, and from time to time, as they shall think necessary, amend it. If the Commissioners do not choose to call for a new valuation, the old one stands as the basis of the calculation; every ecclesiastical person therefore appointed after 1833 took his see or benefice subject to this annual charge or tax, and therefore the cases to which we have been referred as to clear words being necessary to impose a new tax on the subject do not apply. The annual charge or tax is imposed by clear words, the incumbent takes the benefice subject to it, and the only question is whether it is transferred by force of the vesting words in section 11 of the Irish Church Act. This is an annual charge in the nature of a rent, variable in amount, but permanent in character, and it is as much property as the rentcharge issuing out of land varying with the price of produce; therefore the Primate has failed to show that he is relieved from this tax, even for the year 1870; in fact, if he were relieved for this year, I do not see any reason why he should not be relieved altogether.

Viscount MONCK concurred in the judgment.

The appeal was therefore disallowed.

RIGHT OF COMMISSIONERS TO PROPERTY known as "BISHOP EVANS' FUND," (heard by Viscount MONCK and Mr. Justice LAWSON, the 1st February, 1872).

In re The Lord PRIMATE and The Lord Bishop of MEATH,
Appellants.

The appeal in this case was from a conditional order of the 6th April, 1871, directing that the above trust fund should, by virtue of the provisions of "The Irish Church Act, 1869," be paid over by the trustees to the credit of the Commissioners. The deviser was the Bishop of Bangor, and upon his translation to the bishopric of Meath he made his will, bearing date 17th February, 1723, bequeathing the fund in the following terms:—"Item, I devise the whole increase of my personal estate to the Most Rev. the Lord Archbishop of Armagh and the Lord Bishop of Meath for the time being, to be by them laid out on the purchase of glebe lands and impropriate tithes for the benefit and endowment of the several churches in the diocese of Meath, and the sole donation of the Bishops of Meath and no others." In another clause he gave certain funds to trustees for the purchase of glebes and impropriate tithes for the benefit of the poor clergy in England. The fund so bequeathed to the diocese of Meath amounted to £7,453 5s. 3d. Government New 3 per cent. stock.

Mr. *Pilkington*, Q.C. (with Mr. *Cosby*) appeared for the appellants. He said that from the beginning there was considerable difficulty in carrying out the trust precisely as directed. There were in many parishes glebe lands sufficient, and he had found only one instance in which a glebe was purchased from this particular fund. Hence for some time it had been applied in augmenting the incomes of curates, and, shortly before the passing of the Irish Church Act, to increasing the incomes of clergy who required it, whether curates or incumbents. It was plain that this was a trust to be carried out according to the discretion of the trustees. He therefore confidently contended that it was not "appropriated to any particular benefice," or "to the holder of any particular benefice," and so did not pass to the Commissioners under the 12th section of the Act.

Mr. *Hugh Law*, Q.C. (with Mr. *Corrigan*) appeared for the Crown in support of the conditional order, and argued that the bequest should be considered as one appropriated to the eight benefices in the diocese of Meath, whether they took equally or not being a matter at the discretion of the trustees. In proof of this they cited the fact that the clergy who had been benefited by the fund included the augmentation received therefrom in the return of their incomes to the Established Church (Ireland) Commission of 1868, and had also been credited with these increases in the ascertaining of their annuities under the present statute.

Mr. Justice LAWSON, in delivering judgment, said that had the questions involved been complicated or many they would have taken time to consider the case, but seeing that they lay within a very narrow compass, they did not think that delay was necessary. The trust was unquestionably for the benefices in the diocese of Meath, of which the Bishop was the sole patron. Clearly there was a power of selection vested in the trustees, and if a particular case did not require assistance they could not be compelled to give it. But they could give it to no other benefices than those of the diocese of Meath, amongst which, as he said, they could distribute the fund in any shares they thought proper. What did Bishop Evans intend to have done with the bequest? He contemplated that it would be vested in the purchase of glebe lands and impropriate tithes. Supposing it were so vested, that would be real property for the use of those benefices, and the necessary result of the Act was that these glebe lands vested in the Commissioners, as being the endowment of the particular benefices. Under the present circumstances, the Commissioners considered that they were bound, in point of law, to treat the question as if the trust had been literally carried out, which it had not, and, it appeared, could not have been. He had no doubt, however, that the trustees exercised sound discretion in preserving the money in their hands in the form of Government stock, and applying the dividend just as the rent of the lands, on the receipt of the tithes, would have been applicable. Was it now a fund within the language of the Act "in any wise appertaining to the use of any benefice in or connected with a church," or "appropriated to any person holding such benefice"? Upon the whole, they really did not entertain any doubt whatever that the fund came within the former category. The appeal should therefore be dismissed.

Viscount MONCK expressed his concurrence in this judgment.

RIGHT OF COMMISSIONERS TO PROPERTY known as "BISHOP GORE'S FUND." (heard by Viscount MONCK, Mr. Justice LAWSON, and the MASTER of the ROLLS, the 31st October, 1872.)

In re The REPRESENTATIVE CHURCH BODY, Appellants.

Dr. Ball, q.c., m.p., with Mr. Pilkington, q.c., appeared for the Representative Church Body; and Mr. Law, q.c., with Mr. Naish, attended to watch the proceedings on behalf of the Crown.

In this case it was contended by Counsel on behalf of the Representative Church Body, that a sum of money and other property vested in the Ecclesiastical Commissioners for Ireland by an order of the Lord Chancellor made in the year 1844, *did not pass* to the Commissioners. The trust fund had been originally bequeathed by Dr. Gore, Bishop of Waterford, in 1690, for the repair of churches in the diocese of Waterford and Lismore. The order previously made by Mr. Justice Lawson was that the trust fund passed to the Commissioners, the latter holding that under the 12th section it passed to them discharged from all liabilities. The bequest had been the subject-matter of a substantial scheme by the Court of Chancery on the 3rd of February, 1844. The Ecclesiastical Commissioners for Ireland and their successors had been appointed trustees of the bequest, they undertaking to administer the bequest agreeably to the intention expressed in the will, and to expend the fund in the rebuilding and repairing old ruined churches in the diocese, and to open a separate account to be entitled "Bishop Gore's Bequest." Counsel referred to the case of "Bishop Evans' Fund," and contended that the property did not pass to the Commissioners under the 12th section.

The MASTER OF THE ROLLS, in delivering the judgment of the Court, said the Ecclesiastical Commissioners of that day were not a corporation for administering bequests in this country, but were simply a corporation for special purposes. It being known, however, that one of the duties imposed upon them being the repair of churches, and having public funds to dispose of for that purpose, and this being a fund for that same purpose also it was a convenient course to vest the trust in the Commissioners. It is the unanimous opinion of the Court that the fund has passed to the Commissioners under the 12th section. The language of that section first speaks of property appropriated to benefices, and then goes on to that pertaining to the holders of the benefices; and in the glossary to the Act we find that the word "benefice" includes a church.

Viscount Monck and Mr. Justice LAWSON having concurred in the judgment the appeal was dismissed.

RIGHTS OF COMMISSIONERS IN RESPECT OF "PRIVATE ENDOWMENTS" (heard by Viscount MONCK, Mr. Justice LAWSON, and the MASTER of the ROLLS, the 30th day of October, 1872).

In re The REPRESENTATIVE CHURCH BODY, Appellants.

(BENEFICE OF DUNLEWEY, DIOCESE OF RAPHOE).

The facts of the case were as follows:—

The perpetual curacy of Dunlewey was constituted under the 1 Geo. II., c. 18, by a private endowment. The Ecclesiastical Commissioners granted an augmentation of £32 a year to the holder of it. That £32 a year was included in the life annuity to the incumbent. The Representa-

tive Church Body claimed that the £32 a year was perpetually annexed to the benefice. This claim was disallowed by Mr. Justice Lawson, from which ruling the present appeal was brought.

Dr. *Ball*, q.c., m.p., and Mr. *Pilkington*, q.c., for the appellants.—The Commissioners have admitted that the 70th section of the Irish Church Act saves this curacy, and the only question in dispute is whether the £32, the grant of Primate Boulter's Fund, also passes with the private endowment. The Ecclesiastical Commissioners were made trustees of this fund by the 3 & 4 Wm. IV., c. 37, and directed by that Act to keep a separate account of this fund, distinct from all their other sources of income. The augmentation was to the benefice, not to the holder of the benefice; in fact, a stipendiary curate could not be augmented, for the very fact of an augmentation being granted to such a person at once turned his curacy into a benefice. The augmentation is drawn after the endowment, that is admittedly saved—a large amount of Boulter's Fund has been actually laid out in the purchase of land, and surely in the case of a private endowment where land was added the Commissioners could not claim it.

Mr. *Law*, q.c. (who appeared for the Crown), referred to 1 Geo. II. c. 18, secs. 4 to 10. Endowment is a term well known in ecclesiastical law, and means a grant not revocable; these grants from Boulter's Fund were made to the individual clergymen, and were forfeited by non-residence. Counsel referred to 103, 93, and 97 secs. of 3 & 4 Wm. IV. c. 37.

Mr. *Naish* followed on the same side, and quoted the 9th section, 3 & 4 Wm. IV., c. 37, and the 70th and 11th sections of "The Irish Church Act, 1869."

Mr. *Pilkington*, q.c., replied, and called attention to the fact that even when a parson was deprived of the augmentation, which was part of his salary, on doing certain acts, the salary would revert to his successor.

Mr. Justice LAWSON.—"That is just the point, the difference is that if this augmentation were an endowment, the moneys would be sequestered for the cure of souls during his suspension, whereas in the case of Boulter's Fund augmentation, the moneys during this period passed to the Ecclesiastical Commissioners away from the Church altogether."

Counsel also mentioned sections 61 and 94, 3 & 4 Wm. IV., c. 37, 10th sec., George II., c. 18, and 70th sec. of "The Irish Church Act, 1869," contrasting the words "held for" and "belonging to."

Judgment was delivered by THE MASTER OF THE ROLLS as follows:—

The question raised in this appeal is, whether a sum of £32 a year, granted by the Ecclesiastical Commissioners, under the 3rd & 4th Wm. IV., c. 37, as an augmentation of what they styled the benefice of Dunlewey, is property saved to this benefice under the 70th section of "The Irish Church Act, 1869," as against the ultimate trust of the property reposed in the Commissioners constituted thereunder.

The grounds upon which this appeal is rested are, that this £32 a year was granted out of what is called "Primate Boulter's Fund"—that this latter fund was a private one—that Dunlewey Church is, as it was constituted, either a proprietary one or a chapel of ease; and that, therefore, the £32 a year is saved by the 70th section of the Act, as appropriated out of private funds to this proprietary church or chapel of ease.

The 70th section is as follows:—"Nothing in this Act contained shall affect the patronage or right of presentation to any proprietary or district parochial church or endowed chapel of ease which has been endowed out of private funds, or affect the property in any such church or chapel, or

the property held for the purposes of or appropriated to the use of the same, or affect the continuance of the trust relating thereto, as originally constituted."

Now to properly understand this section according to the settled rules which have been laid down for the construction of Acts of Parliament as well as all written instruments, it must be read in connexion with, and qualified by the other provisions of the same Act of Parliament.

Boulter's fund—as is well known—was a bequest made by his will, destined to the augmentation of poor livings in Ireland, which has been the subject of legislation on more than one occasion, the result of which (as well described by Mr. Pilkington) is, that a legislative scheme has been from time to time settled for the carrying into effect of his benevolent intentions. We have no doubt that Primate Boulter's Fund was a private fund, and that it remained so notwithstanding the mode in which it has been dealt with by the Legislature. But being so, the point is, whether the award or grant of the sum given to the Dunlewey benefice (as it is called) is within the 70th section. We clearly think that it is not, and for the following reasons:—

Dunlewey church or chapel of ease was originally constituted by an instrument under the statute of George II., a copy of which has been produced: the endowment thereby provided is unquestionably saved by the 70th section. On the 5th May, 1857, an order was made under the 3 & 4 Wm. IV. c. 37:—It was ordered by the Ecclesiastical Commissioners for Ireland that certain benefices be augmented by the sums set opposite their names; and amongst those benefices appears:—"Dunlewey perpetual curacy £32."

Now assuming that the order can be taken to have been made against the Boulter fund specifically—which we are by no means prepared to hold—what is its effect, having regard to the provisions of "The Irish Church Act, 1869"? That Act, by its 11th section, vests in the Commissioners "All property, real and personal, at the date of the passing of the Act, vested in or belonging to the Ecclesiastical Commissioners for Ireland," &c. Plainly, under this section, the entire of Boulter's fund vests in the present Commissioners, subject, no doubt, to the liabilities attaching upon the same, which were of a double character, as is well known—eleemosynary and ecclesiastical.

Then comes the 12th section, which vests all the property other than corporeal free from all claims of ecclesiastical persons, whose rights in respect of such deprivation are compensated by the provisions of the 14th section. Now the effect of these two sections is to place Boulter's fund entirely under the control of the Commissioners, free from all ecclesiastical claims, save the compensation of life interests. The 29th section throws additional light on this matter. It was well known that benefices had been from time to time augmented out of this Boulter's fund, which was to vest in the new Commissioners—besides, it was well known that benefices had been from time to time endowed from other private sources; to deal with individual cases of this kind (some of them being of very remote antiquity), and to investigate them would have been a most embarrassing matter; and the legislature, by the 29th section, seems to have said, let all these private endowments or augmentations go with the public ecclesiastical property, but we will name a sum in lieu of them which will entail no loss to the endowments or augmentations; and accordingly £500,000 is given in lieu of them, subject to the just provision that the benevolent intentions of the donors are fastened on the substituted sum, an additional advantage being conferred, by the obligation on the Commissioners, to satisfy the life interests therein,

But it was manifest that there was another class of cases where in all probability no difficulty of ascertaining the private endowments would arise, viz., cases where, under statutable powers in recent times, under deeds or other instruments of trust, proprietary or district parochial churches, or endowed chapels of ease, were actually constituted by individuals; and these it was thought right to exempt entirely from the operation of the statute, whenever they were found to be entirely or substantially endowed out of private funds, and accordingly the 70th section preserves the right of presentation thereto—preserves the property in the fabric of the church, and the property held or appropriated to the use of the same, and the continuance of the trust as originally constituted. In other words, the endowment of the church as originally constituted is saved, if it came from a fund which never vests in or comes to the Commissioners, but not a fund like the Boulter bequest, which under the Irish Church Act is actually vested in the new Commissioners, and which was subject before such vesting only to a mere floating liability. Further than this we think that the 70th section has no operation.

Now this construction makes the whole Act consistent, and does not tend to the plainly impossible construction of the 70th section, viz., that thereunder public ecclesiastical property appropriated subsequently to an originally private foundation is preserved. If the wide sense contended for is to be given to the word appropriated in that section, there would be no escape from that conclusion, which is fairly enough conceded to be inadmissible; also the equally absurd consequence that Boulter's fund, appropriated to a benefice proper, is not preserved, while its appropriation to the class of churches within the 70th section is saved, will be avoided.

It is also to be borne in mind, in reference to the word "appropriated," that it is plain that the augmentations out of Boulter's fund are only appropriated *sub modo*, having regard to the revesting of them, under certain circumstances stated in the statutes. In truth, the language of the 70th section is not at all applicable to save endowments in a case where the property, subject only to a floating charge, vests in the Commissioners, but simply applies to cases where the property devoted to the church or chapel by the endowment stands apart and is untouched by the provisions of the Act, which undoubtedly is not the case with Boulter's fund.

Intention and legal construction here go together. Our decision is based entirely on the legal view of the construction of the language used. For myself, I must say that even if I were cognizant of intention, and that the Act of Parliament failed to carry it out, so far from straining its language to support such supposed intention, I would unquestionably hold that whatever was the consequence, the legal construction of the language of the statute should prevail, that being the only safe mode of construing an Act of Parliament.

Mr. Justice LAWSON.—It is very satisfactory to me and to my brother Commissioner that the construction which we have been in the habit of putting upon this statute is now confirmed by the high authority of His Honor the Master of the Rolls. Lord Monck and I have frequently considered this subject, and our conclusion was, that under the 11th section of the Act, Boulter's Fund vested in us, subject only to the obligation of compensating those who had augmentations out of the fund by the grant of life annuities, and that subject to that obligation the fund vested absolutely in us. On former occasions it was contended before us that Boulter's Fund being vested in the late Ecclesiastical

Commissioners, as special trustees, did not pass to us at all, or that if it did pass, it was liable in our hands to the continuing trust of applying it in augmentations. That point we overruled after hearing it argued.

The Comptroller and Auditor General has thought proper in his report to Parliament* to censure us for compensating the present holders of augmentations, alleging that on the true construction of the statute such compensation ought to be paid out of the £500,000 provided by the 29th section. There is no foundation for any such opinion, as now shown by the judgment just delivered. The question now argued is, that in cases falling within the 70th section, the augmentations are preserved as private endowments. We considered that they were not private endowments at all within the meaning of the 70th section, and the Master of the Rolls now confirms that view. The appeal is, therefore, disallowed.

II.—DECISIONS AFFECTING TENANTS OF CHURCH LANDS.

RIGHTS OF RENEWAL OF TENANTS OF SEE ESTATES (heard by Viscount MONCK and Mr. Justice LAWSON, the 23rd December, 1870).

In re JOHN LESLIE, Esq., Appellant.

In this case the appellant claimed a renewal of a lease held under the see of Kilmore. The appeal was brought from the ruling of Mr. Justice LAWSON, fixing for the future the rent and periods of renewal, and the fine to be paid by Mr. Leslie under his lease from the late Bishop of Kilmore. The question arose under the 3rd sub-section of the 12th section of the Act, by which the Commissioners are authorized to fix once and for ever the amount of rents, fines, and periods of renewal in respect of all lands held under the different Archbishops and Bishops in Ireland, within one year from the death or cessor of such Archbishop or Bishop.

The following was the substance of the conditional order, viz. :—

“That in the case of tenants having renewable interests who do not wish to avail themselves of the power of obtaining a perpetuity, the terms upon which the lease should be renewed ought to be made as nearly as possible identical with those on which a perpetuity can be obtained by tenants under the recent rules of the Commissioners as sanctioned by the Privy Council.”†

Dr. Ball, Q.C., M.P., and Mr. Porter, for the appellant, contended that he was entitled to obtain the renewal by paying the same annual rent and the same fines which he had been in the habit of paying previous to the passing of the Irish Church Act. In this case and in most of the leases in the see of Kilmore the fine has been a fixed fine of a money value known and paid regularly to the Bishops during the last nine years. At this rate a tenant is now entitled to get a perpetual interest once and for ever. At this rate he could have got it the day previous to the death of the late Bishop. The Ecclesiastical Commissioners were, under the 23 & 24 Vic., c. 150, empowered to make a new valuation, the object of that Act being to coerce the tenants to pay their fines regularly. But the Legislature has now remitted the tenants to their position under

* *Vide* Report of the Comptroller and Auditor General upon the Account of the Commissioners of Church Temporalities in Ireland for the year 1871 (pages 23 and 25).

† See *post*, page 163.

3 & 4 Wm. IV., c. 37. In the case of a *first* renewal, the 160th section of that Act decided that the renewal fine was to be ascertained by the average of previous renewal-fines, which average was, by the effect of sections 128 to 131 inclusive, grafted into section 160, shown to be that of the payments during the nine years previous. The 161st section did not provide for the case of a first renewal, but for future renewals. (See case of *Rex v. Ecclesiastical Commissioners*.)* The word "fix" in the 12th section does not imply an arrangement *de novo*, but rendering certain what was before variable.

Mr. Law, q.c., and Mr. M. J. Barry, appeared for the Crown, and contended that the Irish Church Act was not intended to give the tenants of the see lands which would exist for some years to come the advantages possessed by the tenants of the suppressed sees. Prior to the passing of the Irish Church Act the tenants of the suppressed sees could not raise the question contained in *Rex v. The Ecclesiastical Commissioners*. Under the 3 & 4 Wm. IV., c. 37, s. 161, a legal power existed that if at any time the *first* lease should have increased in value the fine should be increased. The tenants having been remitted to their position previous to the Act of 1860, the Commissioners *have power* to increase the amount of the fine as they have done.

Mr. Justice LAWSON said he considered that, under the wide discretion given to the Commissioners by the 12th section to fix once and for ever the amount of rent and fine, the Commissioners might have enforced terms more disadvantageous to the tenants, having regard to the increase in the value of land which had taken place, and which in every civilized country was likely to continue with the increase of wealth and population.

In this case the tenant, Mr. Leslie, was entitled to a perpetuity, which would be most advantageous to him, and would uphold and protect the rights of the subtenants; but he was also entitled to decline taking out a perpetuity and continuing to take renewals of his lease. The Commissioners had very carefully inquired into the terms upon which the late Commissioners had been in the habit of granting perpetuities, and they found that they were very onerous and very unequal, and had consequently deterred tenants from availing themselves of the benefit intended for them by allowing them to turn their lease into a perpetual interest. In the report of Dr. Ball's commission† much information was supplied on this point, and suggestions were made for the alteration of the mode of calculating the sum to be paid upon the grant of a perpetuity. After much consideration the Commissioners had adopted a new scale, which had been sanctioned by the Privy Council, which offered to the tenant a perpetuity on terms so advantageous that it was to be expected that all the tenants would at once avail themselves of it. The result of it would be found to be that it would only cost about two years' purchase of the profit rent. When Mr. Leslie, instead of taking a perpetuity, applied for a renewal, which he was entitled to do, the Commissioners thought they would best carry out the spirit of the Act by assimilating as nearly as possible the conditions of the two classes. Therefore they calculated in this case the amount of money which would entitle Mr. Leslie to a grant in perpetuity, and they increased his fine by adding to it the interest of that sum at four per cent., leaving the rent as before, and the usual periods of renewal unaltered. It has been argued that this placed Mr. Leslie in a worse position than if he had taken a perpetuity, and

* See particulars of case appended, *post*, page 95.

† See Appendix, No. V., p. 56, "Established Church (Ireland) Commission Report 1868."

that is so, for he still has the expense and trouble of renewals; and if he applied for a perpetuity afterwards, he would still have to pay the amount which the tables would show was the purchase-money of the grant. We can only say that Mr. Leslie may avoid all these inconveniences by taking the perpetuity instead of the renewal. The question now argued is, whether the Commissioners have power to make any change in the fine, for it can scarcely be contended that if they have any such power the addition made is not less than upon any calculation of present and probable future value the Commissioners would have been entitled to demand. This question turns entirely upon the construction of the 3rd subsection of section 12. If the Commissioners were to be at liberty to do nothing but ascertain the actual fine theretofore paid, and to grant the renewal upon that basis (as under the 160th section of the 3 & 4 Wm. IV., c. 37, the Ecclesiastical Commissioners must have done), all the words at the close of that subsection are meaningless. The words "once and for ever" indicate that the Commissioners are by one operation to do what might before have been done repeatedly and from time to time. And if we look at the 160th and 161st sections of the 3 & 4 Wm. IV., c. 37, the meaning of the clause is, in our judgment, placed beyond doubt. The 160th section requires the Ecclesiastical Commissioners upon the occasion of the *first* application to them for a new lease, to grant it upon the old rent and the old fine. But the 161st section enacts that if at any time after the value of that new lease should appear to the Commissioners to be either increased or diminished, the Commissioners might require such greater or lesser renewal fine as in their judgment might be just and reasonable with regard to the increased or diminished value. Both those sections were repealed by the 23 & 24 Vic., c. 150, sec. 26; but the 12th section of the Irish Church Act places the tenants and the Commissioners upon the footing which they stood before the passing of the 23 & 24 Vic. c. 150. The rights and obligations are therefore those which were created by the 160th and 161st sections of the 3 & 4 Wm. IV. c. 37, and under which, upon the occasion of all renewals subsequent to the first, the Commissioners would have had a power of increasing or diminishing the fine. If the tenant could show that the value of the land was diminished, he could ask a reduction of the fine, and the Commissioners, if the value had increased, could demand an increase, both being subject to arbitration. But the legislature seeing that this commission was only to last for a limited time, and contemplating a sale of all Church property, instead of leaving this recurring power to the Commissioners, requires them to fix the rent and fine once and for ever, with a like reference to arbitration, as that provided by the 161st section, in case of any difference in relation to such rent and fine. We cannot hold that the 161st section, which was intended to benefit both tenant and landlord, as the case might be, has been abolished. It is not expressly repealed, and we find a new provision made by the Irish Church Act in strict analogy to it, and suited to the altered circumstances of the case.

Viscount MONCK said he thought the Commissioners were not confined to granting renewals at the old rates of fine, but were authorized to determine what they should be by reference to the value of the lease at the present time. At the time of the passing of the 23 & 24 Vic. c. 150, all the leases had been at least once renewed, and therefore the 160th section had done its duty. This case is an illustration of the advantage arising from having a question of this kind argued before us, and I feel myself bound to acknowledge the assistance I have received in its consideration from the arguments of the several counsel. The question

arises under the 3rd sub-section of the 12th section of the Irish Church Act, and I think we may discharge from our consideration all other enactments save those contained in the 3 & 4 Wm. IV., c. 37, ss. 160, 161. We are asked to say that these two sections are re-enacted by the former sub-section, which it appears to me would be a forced construction of this sub-section, for what that section does is to enact that the tenants who hold "directly under any such Archbishop or Bishop, where leases had been theretofore customarily renewable, shall have similar rights of renewal of their said leases, and the said Commissioners shall be under similar obligations, and have similar powers and rights in relation to such renewals, and the rents and fines thereupon, as the tenants of sees suppressed under statute 3 & 4 Wm. IV., c. 37, and as the Ecclesiastical Commissioners in regard thereto had and were under respectively immediately before the passing of statute 23 & 24 Vic., c. 150." It seems to me that the question is not one of law or construction, but of fact—what were the rights of the tenants of the suppressed sees at those dates? The rights of the tenants were those conferred by the 3 & 4 Wm. IV., c. 37, ss. 160, 161, under which sections the Ecclesiastical Commissioners had a power of inquiring as to the amount of fines. Accordingly, on the true construction of this sub-section, I must uphold the ruling of Mr. Justice LAWSON.

Mr. Justice LAWSON said that he concurred with Lord MONCK, and that the Commissioners are not to look to the future but to the present. The words in the section are very wide, and include "any difference" in reference to arbitration.

The conditional order was accordingly affirmed.

NOTE.—In the case of *Rex v. Ecclesiastical Commissioners for Ireland*, above cited, application was made to the Court of King's Bench (Easter Term 1837), for a *Mandamus* to the Ecclesiastical Commissioners directing them to concur in a reference to arbitration pursuant to the Act 3 & 4 Wm. IV., cap. 37, sec. 161.

The application was founded on an affidavit which set forth:—

1st—That the Incorporated Society for promoting English Protestant Schools in Ireland, had for many years previous to 1832, held from the Bishop of Waterford, the lands of Kilronan, in the County of Waterford (containing about 340 acres), and, that the said Bishop, by indenture dated 30th August, 1832, did in consideration of their interest in the said lands, grant them a renewed lease for twenty-one years from 24th June, 1832, at the yearly rent of £32 6s. 2d.

2ndly—That in November, 1832, the said Bishop died, and that pursuant to the Act above cited the temporalities of his see became vested in the Ecclesiastical Commissioners for Ireland.

3rdly—That in November, 1834, the said Commissioners caused notice to be served on the said society, requiring them to elect within six months whether or not they would take out a renewal of their lease, and the society expressed their intention of taking out a renewal thereof.

4thly—In February, 1835, the society reduced the rental of their tenants on the said lands by £98 a year, in consequence of a report of their agent that the same was too high, and that a valuation was made in June, 1835, by the Ecclesiastical Commissioners' agent, which corresponded with that previously made by the society's agent.

5thly—That thereupon the society claimed a proportionate abatement of renewal fine from the Commissioners, and they were informed in answer to their claim, that a renewal would only be granted on the basis of an average of the fines, on which renewals had been granted by the late Bishop.

6thly—That the society then asked the Commissioners to consent to refer the matter to arbitration as provided for in the 161st section already cited, which the Commissioners declined to do, on the ground that they were bound under the provisions of the Act cited, to accept only such renewal fine as would be equivalent to the average amount of the renewal fines paid previously to the late Bishop, the same to be ascertained in the manner prescribed by the Act.

The following was the judgment of the Court:—

Burton, J.—We are of opinion, that the *Mandamus* should not go, and that the case is not within the 161st section. The application is to compel the Commissioners

to appoint arbitrators, and it is insisted that it is peremptory so to do. If we had any considerable doubt we should issue a *Mandamus* in the first instance. But in this case we are of opinion that the Commissioners have arrived at a true construction of the clause, and that the objects of it will be but little affected by the course which they have adopted, and that not only do the words not bear out the construction contended for; but that great inconvenience would arise from such a construction of the 160th and 161st sections taken together. The cases of perpetuities are provided for by elaborate machinery, and the object of the present clauses is to provide for cases of renewable interests. Where usually renewable on certain terms which might be refused when the lands became vested in the Ecclesiastical Commissioners, the 160th clause makes it imperative on them to renew upon terms to be ascertained in the manner directed.

That certainly operates on renewals to be made for the first time.

But the question is, whether the 161st section is to be applied to the first time of renewal? The construction which the Commissioners have put on the clause, and which we think true comparing it with the other provisions of the Act, and the consequences which would follow, is, that the question for them as to whether the valuation be changed or not, does not arise on the first occasion of the renewal. They have come to an opinion that if the valuation of the lands has *increased* they cannot increase the renewal fine, and yet this course would follow, if it were held that they were bound to *decrease* it, where the valuation was diminished.

Crompton, J.—Nothing but the ingenuity of counsel could have raised a doubt on this case. The main question is whether the 161st section applies to a first renewal.

The tenants have gained great benefits under the Act, first by the power of converting their estates into perpetuities, and secondly by providing, if they do not wish to do that, they may renew. Look to the analogy of the provisions with respect to these different benefits. In the case of a purchase there is a fixed *rent*, and that being done the renewal is on future occasions liable to be varied. Apply this to the other case of benefit. Section 160, fixes an average of *fine*, and section 161 applies to cases of variations, not in the value of the *lands* but of the *new lease*.

Perrin, J. Concurring.

Motion refused.

Counsel in support of application Mr. Sergeant Greene and Mr. Collins; *contra*, The Solicitor-General, Mr. Blackburne, and Mr. Martley.

LEASE OF LANDS HELD INVALID. PREVIOUS TENANCY. RIGHT OF PRE-EMPTION PRESERVED (heard by Viscount MONCK, Mr. Justice LAWSON, and the MASTER of the ROLLS, the 30th day of October, 1875).

In re RICHARD TOTTENHAM, Esq., Appellant.

This was an appeal against an Order made by one of the Commissioners, which declared to be invalid a lease for thirty-one years, granted by the Rev. Henry Tottenham (incumbent of Fintona or Donacavey, in the Diocese of Clogher) to the Appellant, of the lands of Dundiven, at the rent of £9 per annum, inasmuch as it recited that the Lessee was in possession, when he was not, and because the consent of the Bishop of the Diocese had not been obtained thereto.

Mr. *Gerald Fitzgibbon*, q.c. appeared for Appellant, and explained that the original object of his client was to obtain the shooting over the lands (consisting of about 287 acres of mountain), which were sublet to a man named Jordan.

Mr. *Fitzgibbon*, while admitting that the lease did not comply with the requirements of "Napier's Act," urged that nevertheless it would be good by way of contract against the lessor except so far as it was in opposition to the policy of the Act. He also contended that it was a good lease under 23 & 24 Vic., c. 153, and the "Land Act of 1870."

The Court ruled the lease to be null and void.

Mr. *FitzGibbon* then argued that notwithstanding this decision a tenancy from year to year had been established by a tenancy that existed before the existence of the lease, and such tenancy not having been determined, the Appellant was entitled to a right of pre-emption pursuant to the 34th section of "The Irish Church Act, 1869." A receipt for rent for the half-year preceding the granting of the lease having been produced, the Court unanimously decided that a tenancy from year to year had existed, and was not determined by the lease, which must be considered to have been entirely inoperative, and that the Appellant was entitled to the right of pre-emption of the purchase of his holding.

LEASE OF MENSAL LAND HELD INVALID (heard by Viscount MONCK and Mr. Justice LAWSON, the 1st February, 1872).

In re ELLIS H. KNOX, Esq., Appellant.

(BENEFICE OF BALLYMONEY, DIOCESE OF CONNOR.)

In this case it appeared that the appellant held a lease of certain glebe lands close to the town of Ballymoney, adjacent to the glebe house, which was executed on 3rd February, 1871, by his father (the late Rev. Thomas Knox, incumbent of Ballymoney) shortly before the lodgment of his claim to commute in March, 1871; and, it having been represented to the Commissioners that such lands were absolutely necessary for the convenient enjoyment of the glebe house, and would be claimed by the Representative Church Body, under the 28th section of "The Irish Church Act, 1869," the lease was declared invalid by Mr. Justice Lawson in chamber; and the present appeal was brought to show cause against such ruling. It further appeared that before the order of Mr. Justice Lawson was made, the Commissioners had offered the lands for sale to the appellant, and that he had accepted such offer, and that the Commissioners had cancelled the proceedings when the error was discovered.

Mr. *Andrews* appeared on behalf of appellant, and contended that the lease had been made at a fair rent, and that the late Rev. Thomas Knox had a legal right to execute the same.

Mr. *Pilkington*, Q.C., attended to watch the proceedings on behalf of the Representative Church Body, and contended that the execution of the lease was not a *bona fide* transaction.

The appellant having been sworn and examined as to the situation of the lands,

Mr. Justice LAWSON said that the lease could not be treated as valid, and that the Commissioners could not recognise Mr. Knox as tenant of the lands in question.

Viscount MONCK having concurred, the conditional order was affirmed.

III.—DECISIONS AFFECTING COMPENSATION OF ARCHBISHOPS, BISHOPS, AND INCUMBENTS DEPRIVED OF INCOME.

CASE ILLUSTRATING THE GENERAL PRINCIPLE ON WHICH ANNUITIES WERE DECLARED UNDER THE 14TH SECTION OF IRISH CHURCH ACT* (heard by the three Commissioners, the 11th April, 1870).

In re Rev. WILLIAM SMYTH KING, Incumbent of Clonenagh, Diocese of Leighlin, and Rev. CHARLETON MAXWELL, Incumbent of Leckpatrick, Diocese of Derry, Appellants.

These were appeals from conditional orders made by Mr. Justice LAWSON, in chamber, and were brought before the three Commissioners for the purpose of deciding the following points, viz. :—

- 1st—The proper amount of *tithe rent-charge* to be allowed in fixing annuities.
- 2nd—The mode of ascertaining the amount of *poor-rates* to be deducted therefrom.
- 3rd—Propriety of *deductions for salaries of curates*, and meaning of "*the same incumbency*."
- 4th—Propriety of deductions for *visitation fees*.
- 5th—Propriety of deduction of *ecclesiastical tax*.

Drs. *Todd* and *Elrington* appeared for Rev. W. S. King; Mr. *McCausland*, q.c., appeared for Rev. C. Maxwell; and Mr. *Hugh Law*, q.c., with Mr. *M. J. Barry*, appeared on behalf of the Crown.

Drs. *Todd* and *Elrington* contended, on behalf of Mr. King, *as to the first point*, that the proper amount of tithe rent-charge had not been allowed, as the applotment book and amount actually received showed £1,127 4s. 7d., whereas the amount allowed was set down at £1,125. *As to the second point*, that the amount deducted for poor rates was too high, the same being arbitrarily taken on an average of five years. *As to the third point*, that Mr. King was not legally bound to pay £25 a year to the perpetual curate of Ballyfinn, nor was he liable to have any deduction made from his annuity for stipendiary curates, on the ground of his not having held the benefice of Clonenagh for "five years next preceding 1st January, 1869," and that on that account the necessary deduction could not have been made by the Ecclesiastical Commissioners during "the same incumbency." Counsel contended that the word "incumbency" meant the holding of the office of incumbent—it was so defined by Johnson—and he submitted that it should be given its ordinary meaning (*Gray v. Pearson*, 6 H. L. Cases). *As to the fourth point*, visitation fees were not a proper deduction, the same being imposed by 27 & 28 Vic., c. 54, which Act is repealed by 21st section of present Act, on 1st January, 1871.

Mr. *McCausland*, q.c., on behalf for Rev. C. Maxwell, also objected to deduction for *visitation fees*, and stated that according to the proper meaning of the word "fees" (Bac. Abr.) there should be some service rendered for the fees, and as these services can no longer be performed, the fees should cease, as after 1st January, 1871, there will no longer be a consideration for them.

Dr. *Todd* contended, *as to the fifth point*, that the ecclesiastical tax was not a tax on the benefice, but a personal tax, depending on a variable valuation; that there is no power in the Irish Church Act to enable an

* See *ante*, page 7.

incumbent to call for a new valuation, as provided in 18th section of 3 & 4 Wm. IV., c. 37; that the present Commissioners are not substituted for the Ecclesiastical Commissioners except in section 31, and that this tax was not *property* within meaning of 11th section.

Mr. *Law*, q.c. (who appeared for the Crown), agreed that the first objection was a mere question of fact. As to the poor-rates, the Commissioners had to take *some* average, and five years seemed to him to be a very fair one; in case of any exceptional cases he felt certain the Commissioners would allow any number of years' average to be taken which might seem most equitable.

With respect to deductions for stipendiary curates, the intention of the Act was to place an incumbent in the same position with regard to income as if it had not passed. The Commissioners had to ascertain the amount of income derived from the tithe rent-charge, and deduct from that amount *all* legal outgoings.

Mr. King's point seems to be, that, though the curate may be recognised as permanent, still his salary is not to be deducted unless the incumbent has been five years in office, and this agreement might just as fairly be extended to all deductions.

Dr. *Todd's* argument would require that the word "incumbent" should be substituted for the word "incumbency." In the Landlord and Tenant Act, 1860, in section 34, "the tenancy" is evidently spoken of as the same, though there may be any number of tenants during the time. In *Gray v. Pearson* the question was not as to the meaning of a word, but the construction of a sentence. Even if incumbency be granted to mean "the holding," it can hardly be made to mean "the holding of the same person."

As to visitation fees and ecclesiastical tax, Mr. *Law* said that the net income of the incumbent before the passing of the Act must be looked to; the Act did not propose to place such persons in a better position. The only question as to the tax is the efficacy of the machinery for levying it. This tax is, to all intents, an annuity, a perpetual annuity payable out of the benefice, and, like an annuity, need not be charged on any lands. The tax does not arise year by year at all, but is a perpetual charge, variable by new valuation at the discretion of the Commissioners. If there be no power under the present Act to make a new valuation, all that follows is, that the tax is not now variable.

Mr. *M. J. Barry* followed for the Crown, and argued that the "just and equitable claims" mentioned in the preamble of the Act meant the amount of income that a claimant was entitled to previous to the passing of the Act, i.e., his gross income, minus all legal rates and taxes.

Judgment having been reserved, was delivered on 23rd April, 1870.

Mr. Justice LAWSON said—In the case of the Rev. William Smyth King, certain objections were made to my order, which have been argued by counsel before the three Commissioners; some of them raise points of considerable importance, which will affect a great number of cases; and although I ruled the several points, necessarily, on deciding upon the amount of annuity to be awarded to Mr. King, I was very desirous that they should be fully discussed by counsel; and, not having had the advantage of hearing any argument when I was making the ruling, my mind was quite open to consider them as if I had never formed any impression about them. We have now fully considered them, and I shall now state the decision which we have unanimously arrived at upon each of the points.

The first objection taken by Mr. King is, that the amount of his rent-

charge is set down at £1,125, whereas it should be £1,127 4s. 7d.* on reference to the applotment book that appears to be the correct amount; we think that Mr. King is not bound by having returned the smaller amount to the tax office, and we therefore allow this objection.

The second objection is as to the amount of poor-rates deducted. The poor-rates were calculated by me, in pursuance of the general orders, on an average of the last five years; but Mr. King contends that the year 1866 was an exceptionally high year, and that if it be taken into the calculation, it will unfairly raise the amount, and that the result will not be a fair average; and he contends that the last three years would supply a fairer average.

Poor-rate being a tax which fluctuates from year to year, and the 14th section of the Act directing us to ascertain the amount of yearly income of which the holder of a benefice will be deprived by the Act after deducting all rates and taxes, our duty is to place him in the same position, so far as income is concerned, as he would have been if the Act had not passed; and, therefore, the only mode of calculating the probable, future poor-rate is by taking a fair average of the past. We accordingly considered that five years would be likely to furnish a fair average, and finding that period adopted by the 32nd section of the Act, in reference to the same subject-matter, we accordingly adopted it. But we do not feel bound by this as an inflexible rule, and are quite prepared to modify it in any case in which it may appear to work an injustice. In this case we think the figures themselves show that the year 1866 was an exceptional year; the poor-rate that year was £100 17s., very much higher than any of the three preceding years, and they are nearly uniform in amount, being £73 or £74 a year; we think, therefore, that it is right to take the average of the last three years, and the deduction will be modified accordingly.

The third objection relates to the deduction for curates' salaries; £225 was deducted, £25 for stipend to a curate at Ballyfinn, and £200 for the salaries of two stipendiary curates; and with respect to the £25, it appears now not to be a payment which Mr. King was legally bound to make, but a voluntary one which he might at any time withdraw, and therefore it cannot be deducted.

With respect to £100, the salary of the second curate, it appears that only one curate has been deducted by the Ecclesiastical Commissioners during the entire of the five years next preceding the 1st of January, 1869, and, therefore, under the proviso of the 14th section, the salary of that curate cannot be deducted.

With respect to the other curate, it appears that the salary of that curate has been deducted by the Ecclesiastical Commissioners during the entire of these five years; but it is contended, on the part of Mr. King that as he has not been in the living for five years, having been only inducted in October, 1864, that, therefore, this deduction has not been made in his case within the meaning of the Act, as it has not been deducted from him as incumbent for five years, but during one of these years from his predecessor.

This raises a question of very general importance, and one which affects the cases of all rectors who have been appointed within the last five years; and if the argument be well founded, they would all escape deduction, and the funds of the Commissioners would be liable to pay their curates, in exoneration of the rectors.

This depends entirely on the construction to be given to the proviso

* This was also the amount received.

in the 14th section. The first part of that section specifies, amongst the deductions which the Commissioners are bound to make in ascertaining the net income of which the incumbent will be deprived by the Act, "salaries of curates, found by the Commissioners on inquiry, as authorized by the 15th section of the Act, to be permanent curates," and if the Act had stopped there, the duty of the Commissioners would be simple and plain, and the rights and liabilities of incumbents would be clear. The Commissioners would inquire whether a curate should be considered a permanent or a temporary one, upon which matter they are left a very wide discretion; the various circumstances which they ought to consider in determining that question are enumerated in the 15th section; and if they consider, having regard to the duties to be discharged and the capacity or incapacity of the rector to discharge them without a curate's aid, that the curate ought to be deemed permanent, and not temporary or occasional, they would then give him an annuity as such permanent curate, and his salary would be paid by the Commissioners, and be deducted from the annuity of the rector, leaving the rector in the same position as he was before the Act.

Then comes the proviso, which is in these terms, "provided that no deduction shall, in the case of any incumbency, be made in respect of a curate's salary under this section, unless a deduction for curate's salary has been made in the case of the same incumbency by the Ecclesiastical Commissioners for Ireland during five years next preceding the 1st day of January, 1869."

In order to understand the meaning of this proviso, it is necessary to advert to the provision of the Church Temporalities Act, by virtue of which the deduction was made. The tax thereby imposed upon benefices was assessed upon a valuation of the benefice, and the 20th section of the Act 3 & 4 Wm. IV. c. 37, directs that, "from the valuation to be made for the purpose of imposing the tax, the Commissioners shall from time to time deduct and allow all rents, synodals, proxies, and other charges, including salaries and stipends of perpetual curates, or licensed assistant curates of any benefice, the incumbent whereof shall be resident in any such benefice."

That was a deduction, not from the incumbent, but a deduction from the valuation, whereby the tax was reduced and he was benefited. Any person reading this proviso alone, and not referring to the Church Temporalities Act, would suppose that *deduction* was used in the same sense throughout the proviso, that a curate's salary should not now be deducted from an incumbent, unless it had been deducted from him for five years by the Ecclesiastical Commissioners. But the word means two quite different and opposite things: the deduction made by the Ecclesiastical Commissioners was a benefit to the incumbent, the deduction to be made under the Act is a deduction from his income; to make one the test of the other is, perhaps, as capricious and extraordinary as a piece of legislation as can be imagined; but we must, of course, give the proviso its ordinary grammatical meaning, and carry it out, although it leads to consequences the most unreasonable and unjust, and which the framers of it could not have understood.

I just mention a few instances of the mode in which this proviso works; the benefit of the deduction of curates' salary from the valuation was only given in case the incumbent was resident, and for a very good reason, as a discouragement to non-residence, and consequently, a rector living abroad, and employing two curates, would not have been entitled to claim this deduction; whereas a resident rector, under the same circumstances, would have been allowed the deduction, and have had his

tax reduced. But now, by this legislation, the non-resident rector is specially rewarded, the salaries of the two curates cannot be deducted from the absentee rector, because no deduction was made for them by the Ecclesiastical Commissioners, and therefore he will have his curates henceforward paid for him by the Commissioners, and he will receive his income free from any deduction for curate's salary; while his resident neighbour, who discharged the duties of his parish, and kept his curates, and was allowed for them by the Ecclesiastical Commissioners, is liable to have the salaries of the curates deducted from his income.

Many other such absurd consequences can be pointed out. A rector, who for a year, either from neglect or from inability to obtain a suitable curate, or from the curate not being licensed, failed in getting the deduction for one year, now avoids the liability to pay the curate; while the rector who has taken care to have a licensed curate during the five years, will not receive the benefit conferred upon his more fortunate neighbour of having his curate paid for him by the Commissioners.

So, incumbents appointed before the Church Temporalities Act passed, and who, therefore, never were liable to the tax, receive the benefit of an addition to their income of the salaries payable by them to their curates, the only difference between the cases being, that the curate whose salary is not deducted may commute without the consent of the incumbent. However, we have only the duty of interpreting and carrying out the Act; and I state these instances of the operation of the proviso to show that we cannot allow ourselves to speculate very much upon the intentions which the wisdom of the Legislature had in introducing the proviso, but must give it its plain and ordinary meaning. We cannot, therefore, attach any weight to the argument that the Legislature must have intended that the test was to be whether it was deducted from the same person, as that would be a better test than if the acts of his predecessor were to be considered.

Looking, therefore, at the proviso, the question is—what is the meaning of the words, "*in the case of the same incumbency*"? does it mean, as contended by the appellant's counsel, "the same incumbent;" or, as argued by Mr. *Lau*, "the same benefice"? We think the latter is the true construction; that incumbency is used throughout in the sense of benefice or preferment, which is a very ordinary meaning of the term; and we think that, if the intention had been, as contended for by the appellant, the language would have been "*in the case of the same incumbent*," not "*the same incumbency*." There is nothing to show that the same incumbency means the incumbency of the same person; and if the deduction had been made for five years in valuing the benefice, no matter who the holder was, it is a deduction in the case of the same incumbency. When a new incumbent has come in within the five years, if he deemed a curate unnecessary in his case, it is to be supposed that he would cease to keep him, and therefore he would not be in a position to claim the allowance; but if he continue the same course of employing a curate as his predecessor did, it is an affirmation by him that the curate is necessary.

We, therefore, disallow his objection, and hold that one curate's salary is to be deducted from Mr. King.

The fourth objection is as to the deduction of visitation fees. I had ruled that these should be deducted as coming under the general words, "rates and taxes, and outgoings to which the holder is liable by law." Visitation fees at present are regulated by the rules and orders prepared by the archbishops, and approved of by the Privy Council, under the 27 & 28 Vic., c. 54. They are fixed by those rules and orders at one penny in the pound upon the net income. It was stated by Mr

McCausland, who argued this point very ably on behalf of the Rev. Mr. Maxwell, that a question had been raised as to the legality of these fees, that the payment of them had been successfully resisted in the diocese of Derry, and that an appeal was now pending from a decision of the Chairman of Londonderry upon the point. In the view we take of this case it is not necessary for us to give any opinion upon that point. The remedy for the recovery of the fees is given by the 75th section of that Act, and it is by civil bill process against the incumbent, so that it is a personal liability of the incumbent, and not a charge upon the profit of his benefice. It may be open to doubt whether such a tax falls at all within the meaning of the 14th section, as not being an outgoing from the profits of the benefice; upon that point we entertain some doubt, but I prefer to rest the decision at which we have arrived, that those visitation fees ought not to be deducted upon another ground.

By the 21st section of the Irish Church Act, the 27 & 28 Vic., c. 54, is repealed from the 1st January, 1871, and this tax then ceases to exist; but the annuities under the 14th section only come into operation from that day, and the effect of deducting it would make the incumbent permanently chargeable with a tax, which is in express terms abolished by this Act. Moreover, the effect of repealing this tax would be to restore the former law as to visitation fees. They in their origin were a kind of composition for the expense of entertaining and providing for the bishop and his officers upon their visitation, and were only enforceable by the canon law. That law, it may be contended, would, on the 1st of January, 1871, by virtue of the 20th section, subsist by contract, and in that way, or by mutual arrangement, the clergy might still be liable to contribute towards the expense of these visitations; and thus, if the former tax were deducted from them, they might be subject to a double burthen.

We are, therefore, of opinion, that the objection as to the deduction of visitation fees must prevail.

The fifth and last objection relates to the deduction for the ecclesiastical tax, and we are all clearly of opinion, that there is no foundation whatever for this objection, and that the right and duty of the Commissioners is quite clear. This tax is a charge upon the benefice, imposed by the 3 & 4 Wm. IV., c. 37, upon all benefices becoming void after the passing of that Act; and, by the 14th section of that Act, the Ecclesiastical Commissioners are to have, take, levy, and receive therefrom and thereout, *for ever thereafter*, a yearly tax, rate, or assessment upon the valuation, and according to the scale mentioned in the Act, so that every incumbent appointed since that Act, took his benefice expressly subject to this perpetual annuity charged upon it. If the Irish Church Act had not passed, his income would have been the profits and emoluments of his benefice, minus the amount of this yearly annuity. The 14th section directs us to ascertain the income of which he will be deprived by virtue of this Act, and that income is the profits of the benefice after the charge is paid. Therefore, if the Act were wholly silent about deducting rates and taxes, and merely directed us to ascertain the income of which the incumbent was deprived by virtue of the Act, surely it could only be the income he enjoyed, the annuity to be given being intended to be equal to that income, so that he shall not be a loser in a pecuniary way by the passing of the Act. I must confess that I think this point is so clear as to be scarcely open to serious argument. With respect to the difficulties which have been suggested, that the tax may be varied in its amount from year to year, precisely the same objection applies to poor-rates, and we must adopt the same mode of ascertaining the proper deduction, by

taking such an average as will give a fair result. It is said that the tax is variable, and that we would thus be making it fixed; but in this we are not imposing a tax, we are estimating an income after outgoings. There is nothing here to indicate any intention of the Legislature to abolish this tax, as there is in the case of the visitation fees.

I find nothing in the Act to show an intention to extinguish it, or to add its amount to the existing income of the incumbent, who took his benefice subject to it.

We, therefore, overrule this objection; the Rev. Mr. King having succeeded on several of his objections, is, of course, entitled to the costs of his claim.

Viscount MONCK and Mr. HAMILTON concurred in this judgment.

INCREASE OF TITHE RENT-CHARGE—THE CORN AVERAGES QUESTION (heard by the three Commissioners, the 2nd July, 1870).

In re Rev. GEORGE BRYDGES SAYERS, Incumbent of Templecorran and Kilroot, Diocese of Connor, Appellant.

This was an appeal from a conditional order made by Mr. Justice LAWSON.

Dr. *Battersby*, q.c., with Mr. *Twigg*, instructed by Mr. *George Bernard*, solicitor, appeared for appellant.

Dr. *Battersby* stated that the last septennial period was in 1868, and, therefore, no further average could be struck under ordinary circumstances until 1875. Counsel admitted that he could not cite any precedent for an increase in the compensation, as from the novel nature of the case there were no precedents, but the cases which most resembled it were those of purchasing lands for the purposes of a railway. In such cases a jury would, in fixing the amount of purchase-money, take into account any advantages that would flow into the owner's interest if he retained possession. The appellant had a right in this case, so far as the time had yet elapsed, to an increase of 4s. per barrel on oats. The Commissioners were to estimate the rights that the clergy would have had if the Irish Church Act had never passed.

Mr. Justice LAWSON observed that the Commissioners were to allow for any prospective increase arising from the falling in or cessation of charges under the 14th section, but the present case did not seem to come under that head.

Mr. *Twigg* submitted that the case was very similar to that of loss of tithes.

Mr. Justice LAWSON, in delivering judgment, said the Commissioners were all of opinion that the objection could not be sustained. They did not think it was intended that the Commissioners were to undertake the extraordinary duty of ascertaining whether an incumbent could succeed in some years hence in raising his tithes by a somewhat elaborate and technical process at quarter sessions. The conditional order would be therefore affirmed. It was to the effect, that unless proceedings for the purpose of raising the rent-charge were taken, and successfully prosecuted by the incumbent during the year 1870 in pursuance of the provisions of the statutes, the claim for increased rent-charge could not be allowed.

STIPENDS OF PERPETUAL CURATES A LEGAL OUTGOING (heard by the three Commissioners, the 2nd July, 1870).

In re The Very Rev. LORD EDWARD CHICHESTER, Dean and Incumbent of Raphoe, Appellant.

This was an appeal from a conditional order of Mr. Justice LAWSON, deducting stipend of perpetual curate of Convoys in estimating claimant's annuity.

Mr. May, q.c., instructed by Mr. Meaze, solicitor, appeared for the appellant, and contended that he was not liable to deduction of this stipend, and that the "other outgoings" mentioned in the 14th section of the Irish Church Act did not cover such a charge.

Mr. Justice LAWSON called attention to the fact that the Dean had escaped a deduction of about £300 a year for his two stipendiary curates—no deduction having been made by the Ecclesiastical Commissioners for the five years next preceding the 1st of January, 1869, as the Dean was appointed prior to the passing of the Church Temporalities Act of 1833.

Mr. Justice LAWSON delivered judgment and said that inasmuch as it was out of the Dean's power to remove the perpetual curate of Convoys, and the benefice was legally liable to the charge, the Commissioners could not make any change in the conditional order, which directed that the stipend should be deducted.

Viscount MONCK and Mr. HAMILTON concurred in this judgment.

MARRIAGE AND BURIAL FEES ALLOWED IN ESTIMATING ANNUITIES. (heard by the three Commissioners, the 25th and 26th October, 1870).

In re The ARCHDEACON of DUBLIN; Rev. T. F. MILLER, D.D., Vicar of Belfast; Rev. RONALD M'DONNELL, D.D., Vicar of Monkstown; Rev. ARTHUR GORE RYDER, D.D., Rector of Donnybrook; and Rev. J. H. MONAHAN, D.D., Rector of St. Mary's, Appellants.

In these cases the appeals were from conditional orders of Mr. Justice LAWSON disallowing compensation in respect of deprivation of "surplice fees" when estimating the annuities of appellants.

Mr. Pilkington, q.c., who appeared for the Rev. Dr. Miller, stated that his client had been presented to the Vicarage of Belfast by the Marquess of Donegall, in 1847. The parish of Belfast was very extensive, and had an enormous population, and he alone had the right of celebrating marriages. By the Irish Church Act that monopoly would be destroyed; and if it was shown that it had been the usage for years to obtain fees on the occasion of marriages—that, in fact, they were recoverable at common law, he would contend that they were an essential element of income. Evidence could be given which would entitle the Court to presume a grant of the right claimed, and that the Vicar was entitled to 8s. 6d. for marriages by licence, and 5s. by banus. The burial fees were a smaller matter, and he was prepared to prove that these had been levied for such a time as to establish a prescriptive right.

Mr. Justice LAWSON said, that in these cases parties appeared to proceed upon the assumption, that after December, 1870, ministers of the disestablished Church would not be entitled to celebrate marriages, whereas they could not only do so, but might also pass an Act by their Representative Assembly, empowering the levying of such fees.

Dr. *Richey*, who appeared for the Rev. Dr. Ryder, said there was no ecclesiastical statute that would enable the clergyman to enforce the fees. The general tone of the canon law was against them, and that was the rule before the Reformation; but the position which the clergyman occupied in the Established Church was peculiar. Theoretically he was supposed to be paid for performing all his duties by his tithe rent-charge; but the law acknowledged this, that, by the existence of a custom springing up in a parish, the incumbent could, by proof of the fact, and of continuous payment, establish a right to fees, which he could recover at law. In reference to the question of burial fees, all the authorities bearing on it were collected in the first volume of Burns' Ecclesiastical Law, page 226. All through the statutes the clergyman had a sort of vested right in a dead person, and could recover a portion of the fees, even if a parishioner were buried in a different parish. With regard to marriage fees, they arose in the same way as the burial fees. Marriage fees, according to the general canon law, were not enforceable by that law, because, marriage being a sacrament of the Church, the demand for fees was considered a denial of the sacrament. Before the Reformation there was a prescriptive payment of fees to incumbents for the performance of these ceremonies; and in the second volume of Burns', page 480, it was stated that there was no doubt that such fees could be recovered at law. There were several cases on the subject; and the last of them was that of *Bryan v. Foot*, in the English Queen's Bench and Exchequer Reports. In that case, with regard to the prescriptive payment of marriage fees, the Judges were unanimous on one point—that, if a prescriptive payment of marriage fees existing in a parish could be proved, the clergyman could recover, by action at common law, from the person married, the amount of these fees. The person going to be married was married under the formularies of the Prayer Book, and had before him, in the vestry, a board containing the amount of marriage fees payable, and when he called on the clergyman to perform the ceremony according to the ritual of the Established Church, he bound himself, by an implied contract to pay the accustomed fee, of which he had notice on that placard.

Mr. Justice LAWSON delivered the judgment of the Commissioners. He said, the question involved was one of serious importance—it was, whether the Commissioners were bound to compensate the rector of a parish for the loss of income arising from fees which are usually known as surplice fees. These fees divided themselves into two classes—fees payable on the celebration of marriage, and burial fees. It was properly admitted by counsel that, so far as the fees were voluntary or complimentary, they were not within the Act at all, because the clergyman was not deprived of these by the operation of the Act, and there was no reason to suppose he would not receive them as freely as before; but it was contended that there was a legal fee for the celebration of marriage capable of being exacted or enforced by procedure either in the Ecclesiastical Courts or through the medium of the ordinary tribunals, and that by the operation of the Irish Church Act the clergyman would be deprived of them. Now, there could be no doubt that a certain fixed fee had been received for the celebration of marriage in the cases before the Commissioners, and the authorities went to this extent—that the fees having been paid from time immemorial, on the ground either of

prescription or grant, or some legal origin of that kind, might be enforced, as decided in the case of *Bryan v. Foot*, reported in the 2nd Law Reports, Court of Queen's Bench, England, and which afterwards came before the Court of Exchequer Chamber; in that case, though the Judges differed on one point, as to whether the custom could or could not be sustained, by reason of the fee being an unreasonable one, they all concurred that a fee of this kind, if reasonable in amount, and if paid as long as living memory extended, was legal, and might be enforced. It was not necessary for the Commissioners to say whether it could be enforced in the Ecclesiastical or Law Courts; it was enough to determine that it was a fee having a legal origin, and legally enforceable by the clergyman. He came next to the second branch of the argument, which was, whether the clergyman was deprived of that fee by the Irish Church Act. It was stated on behalf of Dr. Miller, that fees of 8s. 6d. for a marriage by licence, and 5s. for a marriage by banns, had been always received by the Vicar of Belfast. A statement that these fees would be exacted had been posted up in the vestry, and duly notified to every one of the parishioners. If that were established it showed that the fee was legal; and it would seem to go to sustain it almost on the ground of contract; because, with a person coming in to have a duty of this kind performed, there would be an implied contract to pay the fee. If that were the view to be upheld, the fee was only recoverable by the rector of the parish in his ecclesiastical capacity; and Mr. Pilkington contended that, as by the Irish Church Act all rectorial and other corporations sole were abolished, the clergyman was divested of his legal right to recover these fees. The Commissioners concurred in this view, and they thought that, if fees were enforceable, they could be no longer enforced after the 1st January, 1871; and they thought that the case was made out on behalf of the applicants, assuming the facts to be established to the satisfaction of the Commissioners. In order to prevent confusion, and to obviate the necessity of dealing with claims preferred in ignorance of the decision at which they had arrived, the Commissioners had drawn up the following minute, which they would place on record:—"In every case in which it is shown to the satisfaction of the Commissioners that, as far as living memory goes, a fixed and reasonable fee has been uniformly paid in the parish to the clergyman for the celebration of marriage, and that the public has been duly apprized of the existence of such fee, and that it would be exacted, compensation will be allowed for the loss of the income arising from such fees on an average of years." He now came to the second branch of the argument, with reference to the burial fees. By the ordinary operation of the Irish Church Act, the rights of the clergy in their corporeal hereditaments were preserved. The rector was allowed a freehold in the church-yard for life, and he was not deprived of that freehold, except in one case, under the 26th section, when the burial-ground was separated from the church by a carriage highway, and the Commissioners were empowered to vest it in the guardians of the poor. The Commissioners thought, therefore, that in such a case, where he might be deprived of his rights by the action of the Commissioners, he was entitled to have his claim allowed. With respect to this matter, also, the Commissioners had drawn up a minute and placed it on record. It was as follows:—"In the case of burial-grounds separated from the church by a highway, and which may become vested in the guardians of the poor, if it shall be shown to the satisfaction of the Commissioners that a fixed and reasonable fee has been uniformly paid as a fee for burial, and that the existence of such fee has been duly notified to the public, compensation will be allowed for the loss of income arising from such fees on an average of years."

Viscount MONCK and Mr. HAMILTON concurred in this judgment.

MONUMENTAL FEES NOT COMPENSATED FOR IN ESTIMATING
COMMUTATION VALUE OF INCUMBENT'S LIFE INTEREST (heard
by Viscount MONCK and Mr. Justice LAWSON, the 12th Decem-
ber, 1871).

In re Rev. MAURICE A. C. COLLIS, D.D., Incumbent of Queenstown,
in the Diocese of Cloyne, Appellant.

It appeared that the appellant had lodged a claim for commutation of his annuity and life interest, and that an order had been made by the Commissioners disallowing that portion of his claim which related to monumental fees, and that the appellant had waived his right to appeal to arbitration under the 42nd section of the Act, in order to have the question argued by Counsel before the Commissioners.

Mr. *Pilkington*, Q.C., with Mr. *Bewley*, appeared for the appellant, and urged that as the claimant had always received the fees in question, an average of them might be made and allowed in estimating value of life interest. Counsel stated that the fees were very moderate, being 10s. for a flat-stone and 5s. for a head-stone.

Mr. Justice LAWSON, after referring to the points decided in cases* that had been previously argued before the Court, delivered judgment and said—This is a claim to be allowed in commutation the amount received by the incumbent for monumental fees, and the question in the case depends altogether upon the construction of the 23rd section of the Act. That section directs the claimant desirous of commuting to apply to the Commissioners to commute—first, his annuity, and, secondly, the value of his life interest in any ecclesiastical property, exclusive of any income derived from pew rents and burial fees; and then directs the Commissioners to cause the present value of the annuity, and also of such life interest, exclusive as aforesaid, to be estimated. The question is, What is meant by the words “burial fees” in that section? and if the fees now claimed be burial fees within the true meaning of that section, we are forbidden to include them in the estimate. Now, it appears to us very clearly for the reasons I shall state, that the fees now claimed are burial fees, and cannot be included. The earlier part of the Act directs us to ascertain the annuity to which the incumbent is entitled, which is to be measured by the amount of which the Act deprives him. Now the Act does not deprive him of his life interest in the church and churchyard, but preserves it; it does, however, deprive him of his corporate character of rector or vicar, and therefore disables him from recovering any fees formerly payable to him for services rendered by him in that capacity. Upon that ground we held that surplice fees were to be included in estimating the amount of which the incumbent was deprived. It seems, therefore, to be a corollary from that decision that the burial fees spoken of in the 23rd section are not in the nature of surplice fees payable for a personal service, but fees which the incumbent was or might be entitled to demand, in respect of his freehold in the church and churchyard, for granting ground for burial or the privilege of putting up monuments. They are spoken of in the section, not in connexion with the annuity, but in connexion with the life interest in the ecclesiastical property; they are named in connexion with pew rents, which are similar in their nature, being a payment for a right given in the church, as the others are for a right given in the churchyard. There is no hardship in so construing the Act. The clergyman is

* See preceding decision in the case of the Archdeacon of Dublin and others.

not bound to commute; he can only do so by the consent of the Representative Church Body, and they can make such terms upon the subject as they agree upon. Now, although by commutation the incumbent gives up his life estate in the church and churchyard, the Representative Church Body are entitled to claim it again; and this may have been the reason for the positive direction to exclude these sources of income. But be that as it may, the words of the 23rd section are clear and admit of no doubt, and we could not, without violating the Act, find for the present claim.

Viscount MONCK expressed his concurrence in the judgment.

The appeal was accordingly dismissed.

AUGMENTATIONS OF INCOMES OF INCUMBENTS BY CONGREGATIONS
DISALLOWED (heard by the three Commissioners, the 26th
October, 1870).

In re Rev. JOHN W. MURRAY, LL.D., Incumbent of Ballymena,
Diocese of Connor, Appellant.

Mr. *Pilkington*, q.c., said he had to make an application for an award of £100 a year, under rather peculiar circumstances. An annuity had already been allowed by Mr. Justice LAWSON of £117 a year, in respect of the sources of income appellant had been deprived of by the Act. In the year 1836, Dr. Murray was about to leave the parish, when he was prevailed upon to remain, on several representatives of the parishioners undertaking voluntarily to make up a sum of £100 a year to augment his income. This undertaking had been carried out up to the present, but Dr. Murray was apprehensive, and there could be little doubt that the augmentation would now cease.

Mr. Justice LAWSON.—This case is different from that of a curate. We can only give Dr. Murray what he is deprived of by the Act.

Mr. *Pilkington*.—Your lordship does not consider he will be deprived of this by the Act?

Lord MONCK.—The Act will not deprive him of it.

Mr. Justice LAWSON.—He has no legal claim on the congregation. They may double the sum to-morrow, or they may stop it altogether. We are doing a great service to this parish; the congregation had to pay the curate before, and we are doing it now.

The application was refused accordingly.

COMPENSATION FOR WORKHOUSE CHAPLAINCIES NOT ALLOWED IN
FIXING INCUMBENTS' ANNUITIES (heard by the three Commis-
sioners, the 26th October, 1870).

In re Rev. JAMES PERCIVAL MYLES, Rector of Fanlobbus,
Diocese of Cork, Appellant.

Dr. *Ball*, q.c., M.P., with Mr. *Pilkington*, q.c., instructed by Mr. *George Bernard*, solicitor, appeared for the appellant, who asked the Court to reconsider a decision in Chamber, by which his claim for an annuity had been reduced by £20. It appeared that Mr. Myles received an annual salary for discharging the duty of Chaplain of the Dunmanway Union Workhouse, and counsel argued that by the passing of the Irish Church Act he was liable to be deprived of his office, which, by the 1st &

2nd Vic., chap. 56, sec. 48, he must needs fill during the existence of the Establishment.

Mr. Justice LAWSON could not read the clause as a mandatory obligation on the Poor Law Guardians to appoint Mr. Myles, and he could not see why the office should determine at the end of the year, as it was compulsory by the Act to have a Protestant clergyman so long as there were Protestant inmates.

Mr. *Pilkington*, q.c., said the passing of the Irish Church Act did away with Mr. Myles' monopoly. He might mention that there had been a *mandamus* case in the Queen's Bench, which supported the argument.

Mr. Justice LAWSON said the Court were unanimously of opinion that the appeal had failed. Rule accordingly.

INCUMBENTS NOT ALLOWED MORE THAN THEY ARE LEGALLY DEPRIVED OF (heard by Viscount MONCK and Mr. Justice LAWSON the 1st February, 1870).

In re REV. JOHN BLACKBURNE KANE, Incumbent of Annaghmore, Diocese of Armagh, Appellant.

The appellant appeared in person and stated that he had been appointed to this perpetual curacy, in the diocese of Armagh, in the year 1853 or 1854. His income was made up of £25 from each of three rectors, and £5 from a gentleman having property in the district. He was told that this would be increased if he did not get a house. He had also been allowed for five or six years £30 by the late Mrs. Coke. The Ecclesiastical Commissioners had at one time increased his income by £20, at another time by £5, and again by £25—£50 in all. He had an intention of proceeding to a foreign mission, but he found he had really much heathen work to do at home, and he thought his income would be increased. The £30 formerly paid him by Mrs. Coke had been withdrawn. He did not return £10 that he received from a gentleman named Hardy, because that was a gratuity.

Mr. Justice LAWSON said the Commissioners could not alter the decision already given. They could not give Mr. Kane more than he had been legally deprived of by the Act.*

Viscount MONCK concurred in this judgment.

COMPENSATION FOR TENANTS' DUTY LABOUR, IN ASCERTAINING COMMUTATION VALUE OF LIFE INTEREST (heard by Viscount MONCK, Mr. Justice LAWSON, and the MASTER of the ROLLS, the 30th October, 1872).

In re REV. JOHN KNOX BARKLIE, Incumbent of Outragh, Diocese of Kilmore.

Mr. *Pilkington*, q.c., on behalf of appellant, claimed compensation to the amount of £14 12s. 6d., being the annual value put upon a species of service which Mr. Barklie had been in the habit of receiving from the tenants of his lands, called "duty labour." Mr. Barklie had been compensated for his glebe lands, but his claim for the "duty labour" had

* In delivering judgment in another case, Mr. Justice Lawson said the Commissioners had no power to grant augmentations or to speculate upon prospective augmentations which it was said would have been given if the Irish Church Establishment had continued to exist.

been disallowed. It consisted of four days' labour in each year which was due to him from each of 45 tenants of his glebe. They were yearly tenants, and in default of giving that labour, they had been held bound to send paid substitutes. This service had been treated as part of their rent, and in one instance in which it was withheld, Mr. Barklie threatened to evict, and the tenant yielded. This custom has existed from the time of the first Rector of the benefice, but the number of days given formerly was more than it is now. The predecessor of claimant estimated the value at £15 a year, but there were probably more tenants then than at present. The practice was for the bailiff to summon the tenants, according to the townlands, for hay-making, reaping oats, &c., in summer, and in winter a smaller number attended for general work.

Mr. Justice LAWSON.—Do you think these tenants will do the same work for the Commissioners?

Mr. *Pilkington*.—I am quite sure if your lordships call on them they will. It is a very common custom in that part of the country.

Mr. Justice LAWSON said Mr. Barklie had excluded from his original commutation paper the lands on which this service had been customarily rendered to him.

Mr. *Pilkington* said he had since applied for commutation in respect of the whole of his lands, and further stated that on claimant's appointment to benefice (he having exchanged benefices with the previous Rector) regard was paid to the value of the "duty labour" from the tenants.

Mr. Justice LAWSON, in delivering judgment, said that the last-mentioned statements of Counsel had removed a difficulty, and, as the case appeared to them to be a special one, they would make a further payment of commutation money in respect of "duty labour," but the amount to be allowed would be considered by Lord Monck.

Viscount MONCK and the MASTER OF THE ROLLS concurred in the judgment.

Subsequently an allowance of £11 5s. per annum was made, being at the rate of 1s. 3d. a day for forty-five tenants for four days each in the year.

IV.—DECISIONS AFFECTING COMPENSATION TO CURATES.

CURATES OF PROPRIETARY CHAPELS DECLARED ENTITLED TO ANNUITIES (heard by the three Commissioners, the 6th July, 1870).

In re Rev. JOHN H. SEYMOUR, Curate of Trinity Church, Belfast, Diocese of Connor, Appellant.

Mr. *Pilkington*, q.c., and Dr. *Elrington*, q.c., with Mr. *Cosby*, appeared for the appellant, who objected to a conditional order, pronounced on the 25th March by Mr. Justice LAWSON, disallowing his claim. It appeared that Trinity Church was constituted under the 6 & 7 Wm. IV., c. 31, sections 4 and 5, and counsel contended that there was nothing in the 15th section of the Irish Church Act to confine its operation to cases where the curate, by removal, is deprived of income. In fact, the interpretation of the word "curate" has not been narrowed by the Act, but extended to include residuary preachers and readers, and counsel submitted that there was nothing in the 70th section of the Irish Church Act to prevent the claim being allowed under the 15th section.

Judgment having been reserved until 9th July, 1870, was on that day delivered by Mr. Justice LAWSON for the three Commissioners.

Mr. Justice LAWSON, in delivering judgment, said—In the case of the Rev. J. H. Seymour, curate of Trinity Church, Belfast, an appeal was taken from a ruling of mine disallowing his claim as a permanent curate. It appears that Trinity Church was built and endowed under the provisions of the 6 & 7 Wm. IV., chap. 31. It was consecrated in the year 1843, and the patronage is vested in trustees. It also appears that in accordance with the 4th section of that Act a pastoral district was assigned to it by the Bishop. That Act was repealed by the 14 & 15 Vic., c. 71, but in substance re-enacted by the 14 & 15 Vic., c. 72. The 23rd section of the last Act creates such a church a perpetual cure, and therefore the incumbent of such a church who is paid by endowment and pew-rents could not claim anything under the 14th section of the Irish Church Act, as he would not be deprived of anything by the passing of the Act, as by the 70th section the patronage and property appropriated to such a church is unaffected by the Act. The 15th section, which deals with curates only, requires us to ascertain the amount of yearly income received by each curate, and if he be entitled to be deemed a permanent curate to give him an annuity equal to the amount of such yearly income. The amount of the Rev. Mr. Seymour's income is £125, paid him by the incumbent, and the circumstances of the parish are such, in our opinion, as would justify the recognition of a permanent curate, if Mr. Seymour be not disqualified by reason of the status of the church to which he is attached. We have heard the case argued, and the very clear and able arguments of Messrs. Pilkington and Elrington have satisfied me and my colleagues that the order appealed against is erroneous, and that Mr. Seymour's claim must be allowed. The definition of curate in the Irish Church Act is very large, including even a residentiary preacher or reader. We think the effect of the 70th section is only to prevent the Act from affecting the patronage or property appropriated to such churches, and that it does not disqualify curates of such churches from claiming as permanent curates if otherwise entitled. Nor is there anything in the Act to disqualify a curate because his incumbent is not entitled to any annuity under the 14th section. The effect of such a construction would be that the curate of a rector having no tithe rent-charge, only glebe land, would be disqualified—a construction which we cannot put upon the Act. It appears to have been intended to confer on all curates who might be held to be permanent the advantage of securing to them an annuity, equivalent to their yearly income, even in cases where such annuity cannot be deducted from the incumbent, and where it is, therefore, a charge upon the funds of the Commissioners which they have no means of recouping themselves for. We, therefore, hold that Mr. Seymour is entitled to the annuity; but this decision must be understood as applying only to district proprietary churches similarly founded. We give no opinion as to other proprietary churches at present.

Costs with decision.

CHAPLAINS OF DISTRICT PROPRIETARY CHURCHES DEEMED PERMANENT CURATES (heard by the three Commissioners, the 26th October, 1870).

In re The Rev. FREDERICK FALKINER CARMICHAEL, Chaplain of Magdalen Asylum Chapel, Dublin, Appellant.

In this case it appeared that the appellant was the curate and chaplain of the Magdalen Asylum Chapel, and was under the control of Arch-deacon Lee as rector of St. Peter's. His claim to be considered a permanent curate had been disallowed by Mr. Justice LAWSON.

Mr. *Pilkington*, q.c., now, on his behalf, submitted that as there were over 200 free sittings in the church, that between 300 and 400 parishioners constantly attended it, and as he discharged ordinary parochial duties, by visiting, &c., it was clear his client should be regarded as a permanent curate of the parish of St. Peter.

Judgment was reserved until 28th October, 1870, when Mr. Justice LAWSON said he had disallowed the claim because he wished in this, as in many other cases, to obtain the opinions of his brother Commissioners, and he had no other way to bring the subject before them. All the observations he had made in the case of Mr. Leech* were applicable here to show that Mr. Carmichael must be considered a curate. He held the licence of the Archbishop of Dublin, he had subscribed the stipendiary curate's declaration, and he was doing duty in a large church, situate in a populous parish of the city, containing 600 sittings, of which 200 were free. He discharged the duties of parochial reader and minister to the families of all the frequenters of the church. The Commissioners entertain no doubt that this was a public church, largely frequented by the public, and that Mr. Carmichael was, by the implied sanction of the rector, discharging within the Parish of St. Peter the duties of an ordinary curate. The Commissioners were all clearly of opinion that he must be considered a permanent curate, because they could not think it was the intention of the Legislature to exclude from the benefits of the statute clergymen ministering in such populous districts. Mr. Carmichael claimed an annuity of £200, which, he asserted, represented his income over and above the pew-rents, which the Commissioners were precluded from taking into consideration, and, as they considered that that sum was reasonable, they should declare him entitled to an annuity equal to it in amount.

LEGAL POSITION OF CURATES UNDER "THE IRISH CHURCH ACT,"†
(heard by the three Commissioners, the 26th October, 1870).

Rev. SAMUEL EVANS, Appellant; Rev. R. VERSCHOYLE, Respondent.

The appellant had been hitherto curate of the parish of Derryvallen, in the diocese of Clogher, and he brought the present appeal against a conditional order pronounced by Mr. Justice LAWSON on the 16th of October, to the effect that as the appellant "had been removed as it would appear legally" from his position he could not be deemed a permanent curate within the meaning of the Act.

* See case of "Chaplains of Colleges," *post*, page 115.

† See also decision of Privy Council, *post*, page 148.

Messrs. *Falkiner*, q.c., *Gamble*, q.c., and *J. O. Byrne* were for the appellant.

Mr. *Pilkington*, q.c., and Dr. *Todd*, q.c., for the respondent, contended that under the circumstances of the case Mr. Verschoyle had good grounds for removing the curate. It appeared that an appeal had been made to the Primate, but His Grace refused to interfere.

Mr. Justice LAWSON in delivering judgment said the Commissioners thought that the order disallowing Mr. Evans's claim must be overruled, and they should declare him a permanent curate and entitled to his annuity. He was serving as a curate between the days mentioned in the Act, and had offered to continue his services, but his rector refused to permit him to do so. He might remark, and in future it should be understood, that the Commissioners would not go into questions of discipline there. The proper ecclesiastical authority, or, after 1871, the Representative Church Body, is that which must decide these questions.

WORKHOUSE CHAPLAINCIES DEEMED PART OF CURATE'S INCOME (heard by the three Commissioners, the 26th October, 1870).

In re Rev. THOMAS MOORE, Curate of Drumgoon, Diocese of
Kilmore, Appellant.

This was an appeal from a conditional order made by Mr. Justice LAWSON.

Dr. *Ball*, q.c., M.P. (with whom was Mr. *W. D. Andrews*, LL.D.), appeared for the appellant, and said the main features of the appeal arose from the decision of Mr. Justice LAWSON disallowing Mr. Moore's claim on account of the chaplaincy of the Cootehill Workhouse, and making a lower valuation of the glebe-house and lands than he submitted he was entitled to. It appeared that the patron, a layman, had appointed the late Rev. Mr. Murray rector, and he, being at the time aged and infirm, entered into an arrangement with the appellant, under which the latter was to discharge all the parochial duties, in consideration of being allowed to enjoy the glebe-house and gardens, with about thirty-nine acres of land, and receiving £50 a year, together with £25 annually for the workhouse chaplaincy. Mr. Murray also consented to advance £100 a year for the payment of a second curate. Mr. Moore had sent in an account, which showed that he had made a profit rent of £129 out of the glebe-lands for each of the two past years; but, notwithstanding, the house, offices, and lands were only valued, for the purposes of compensation, at £120. Again, Mr. Justice LAWSON had disallowed the claim in respect of the workhouse chaplaincy.

Mr. Justice LAWSON.—Does he not hold that chaplaincy still?

Dr. *Ball*.—No doubt; but you seem to assume that he is to remain in the parish, whereas once you have fixed his annuity there are certain contingencies under which he may leave with the assent of the Representative Church Body.

The Court confirmed the conditional order, except as to the workhouse chaplaincy, in respect of which the Commissioners deemed Mr. Moore entitled to a contingent annuity of £25 in case he should be deprived of the chaplaincy.

Dr. *Ball* applied for the costs, as an important question was involved in the case.

Mr. Justice LAWSON said that, as the appellant had succeeded as to the workhouse chaplaincy, he should have his costs.

CHAPLAINS OF COLLEGES NOT DEEMED PERMANENT CURATES
(heard by the three Commissioners, the 26th October, 1870).

In re the Rev. JOHN LEECH, Chaplain of Kingston College,
Parish of Brigown, Diocese of Cloyne, Appellant.

The appellant was appointed to the curacy of Kingston College, in the town of Mitchelstown, on the 2nd September, 1847. He claimed to be regarded as a permanent curate on the ground that the college formed part of the parish, and was under the control and dominion of the rector. The claim was disallowed in chamber by Mr. Justice LAWSON.

Mr. *Pilkington*, Q.C., now appeared for the appellant, and produced the appointment to the office of curate of the college, submitting that under the terms of the Act the claim was a proper one.

Mr. Justice LAWSON said the difficulty he felt in this case was that he (the appellant) was a sort of domestic chaplain, and had no spiritual duties outside the walls of the college.

Mr. *Pilkington*, Q.C. (with Mr. *Leech*, Q.C.) said that if the chapel was extra-parochial it would be an answer, but here the appellant had been regularly appointed curate of the college. He had been officiating ever since 1847, and the chapel in the college was open nine months in the year, and was frequented by the people of the town, and occasionally by the rector and his curate, who sometimes actually themselves celebrated Divine service there.

Lord MONCK asked did Mr. Leech perform any other duties but those he discharged in the chapel?

Mr. *Pilkington*, Q.C., replied that, after celebrating service in the college chapel he read prayers in the parish church.

Mr. Justice LAWSON said that one permanent curate had already been allowed, and that the Commissioners never allowed a second permanent curate unless the requirements of the parish necessitated it.

Judgment was reserved until 28th October, 1870, when Mr. Justice LAWSON delivered judgment—He said there could be no doubt that Mr. Leech held the licence of the Bishop giving him the cure of souls within the institution of which he was chaplain, and that he assisted the clergyman in the performance of Divine service, and further, that in the winter months Divine service was celebrated in his chapel. The question then was, was he a curate, and if so, was he to be considered a permanent curate? The word “curate” was not used in a restricted but rather in a very enlarged sense in the Irish Church Act. A reference to the glossary showed that it was extended to residentiary preachers and readers, who would not be otherwise included in the Act, because a residentiary preachship would not be an ecclesiastical preferment, and a reader—though of course the case was different now—might have in former times been a layman. The Legislature unmistakably indicated that they intended to apply the term “curate” to every person in orders who was performing spiritual duties in any parish in Ireland with proper authority. He (Mr. Justice LAWSON) would say that any person performing Divine service in Ireland under the licence of the Bishop, and with the sanction of the rector, was a curate within the meaning of the Act, and to give to the word curate a more limited signification, would appear to him to be entirely opposed to the letter and to the spirit of the statute. To limit it to a person acting as curate under a rector would not be a correct interpretation, for there were many cases of suspended benefices in Ireland where curates had been appointed. Recently he had been obliged in a case of this kind to re-

cognise in the diocese of Tuam an appointment of a curate made by the Bishop. It appeared to him, therefore, that Mr. Leech had made out his case, and that he was entitled to be considered a curate; but then came the all-important question, whether the Commissioners could consider him to be a permanent curate within the meaning of the Act? The designation "permanent curate" was wholly unknown to the law until its introduction into this statute, which gave the Commissioners very wide discretion as to their interpretation of it. He had no cure of souls outside the institution to which he was chaplain, but he had very properly but voluntarily, assisted the rector and the curate in the performance of Divine service; but he did not appear to have any parochial duties to perform. Taking into account the position of the parish of Mitchelstown, it did not appear to the Commissioners requisite to recognise a second permanent curate, and they did not think they would be carrying out the Act of Parliament if they yielded to his claim.

Viscount MONCK and Mr. HAMILTON concurred in this judgment.

AN INCUMBENT'S CLAIM AS CURATE OF A SINECURE PARISH DIS-
ALLOWED (heard by Mr. Justice LAWSON, the 10th December,
1870).

In re Rev. THOMAS TWIGG, jun., Appellant.

The claimant sought to establish his right as permanent curate of Kilsallaghan, diocese of Dublin. He had been appointed as curate in January, 1870, and attended to the parish duties, the rector being non-resident. The claimant is incumbent of the adjoining parish of Swords, and was enabled to undertake the duties of Kilsallaghan, there being only twenty-seven church parishioners. He discharged the sundry duties, and was, in fact, the *bona fide* curate.

Mr. Justice LAWSON said it was only necessary to state the facts to show the monstrous nature of the claim. The rector had only a few Protestant parishioners, and went away and took duty in London, while he was entitled to an annuity for this parish. The Archbishop of Dublin had imposed upon him the responsibility of paying some one who, in his absence, would discharge the duties of the parish, and attend to the spiritual wants of twenty-seven people, and the Commissioners were now asked to pay the rector his annuity and the claimant £50 a year for actually doing nothing. He looked on the arrangement in this case as merely temporary, and arising from the fact that the rector had nothing to do, and therefore left the parish. He would never tolerate or sanction the payment of a permanent curate in a parish where there was little or nothing to be done. The claim was disallowed.

CURATES DEEMED PERMANENT ON GROUND OF LENGTH OF SERVICE
(heard by Viscount MONCK and Mr. Justice LAWSON, the 20th
December, 1870).

In re Rev. LEONARD LEADER COOPER, Curate of Garrycloyne,
in the Diocese of Cloyne, Appellant.

The appellant appeared in person to sustain his appeal, which was made from a conditional order made by Mr. Justice LAWSON, refusing to recognise him as permanent curate of Garrycloyne. The claim had been rejected on the ground that the conditions of the parish were not such as justified the rector in appointing a permanent curate.

It appeared that the rector, the Rev. L. Perrin, had an annuity of £1,008 7s. out of the parish, and that the number of Protestant parishioners was only thirty-eight, but Mr. Cooper had served as curate in the parish since the year 1867.

Viscount MONCK considered that the Commissioners were bound to look to the length of the services of the curate, and to the habit of the rector in employing a curate; and notwithstanding the fact, that owing to the proviso in the 14th section of "The Irish Church Act," a deduction could not be made from the rector's annuity, in respect of the curate's salary, in this case, he thought they should reverse the former decision, and declare the Rev. Mr. Cooper a permanent curate.

Mr. Justice LAWSON concurred, and said that they were not to look at the question from a rector's point of view, but from a curate's, and that the appeal should, accordingly, be allowed.

UNLICENSED CURATES DEEMED PERMANENT UNDER CERTAIN CIRCUMSTANCES (heard by Viscount MONCK and Mr. Justice LAWSON, the 20th December, 1870).

In re Rev. JAMES A. CROSS *v.* Rev. THOMAS G. IRWIN, Curacy of Athboy, Diocese of Meath, Appellants.

Both clergymen claimed to be permanent curates of this parish; only one could be so; and Mr. Justice LAWSON had previously established Mr. Irwin as that curate.

Mr. Cross appealed from the decision, and affirmed that Mr. Irwin was not the curate of Athboy, and was never licensed by the Bishop for the purpose. Both clergymen had been doing duty in the district, and the question was as to which was entitled to the appointment as permanent curate.

The Court, in giving judgment, held that Mr. Irwin had been the properly appointed permanent curate, and therefore confirmed the order which had been before made, and remarked that it was not usual to issue a second or third licence of the Bishop to a clergyman, nor was it the practice of the Commissioners to require the production of a licence if on other grounds they deemed a curate a "*permanent curate*" within the meaning of the Act. Mr. Irwin had been licensed before he came to the district, and the Commissioners considered the argument of Mr. Cross was not a sufficient ground of objection now to raise.

RECENT INCREASES OF CURATES' SALARIES DISALLOWED (heard by Viscount MONCK and Mr. Justice LAWSON, the 22nd December, 1870.)

In re Rev. FREDERICK TYMONS, Curate of St. Bartholomew's, Diocese of Dublin, Appellant.

The Rev. Mr. Tymons appealed from an order disallowing a claim made by him for an addition to his annuity of £30, in respect of a corresponding increase in his stipend made by the rector. The change had come into force by agreement, previously entered into, on the 1st November last, and had been made specially to equalize appellant's income with those of other permanent curates in the diocese.

Lord MONCK said that the Commissioners could not sanction recent increases, unless there was a corresponding increase of duty. They must

arrive at their estimate of the annuity from the stipend paid during the year, for if they adopted the contrary course they might open the door to—he was sorry to use the word—fraud upon the fund created by the Act. They were perfectly satisfied as to the *bona fide* nature of the present application, but as they could not establish such a precedent as he had contemplated, the appeal must be refused.

Mr. Justice LAWSON concurred in this judgment.

(Heard by Viscount MONCK and Mr. Justice LAWSON, the
1st February, 1871.)

In re Rev. ROBERT S. LAW, Curate of Killeavy, Diocese of Armagh,
Appellant.

Mr. *Pilkington*, q.c., with whom was Mr. *T. P. Law*, said the claimant had been in receipt of a yearly income of £133 15s., and on the prospect of a higher salary elsewhere the rector agreed to increase his income to £167 15s. The landlord also promised to give him a residence, as an inducement to him to remain. He would admittedly get a higher salary elsewhere; and having regard to that fact, he (Mr. *Pilkington*) submitted that the claim should be considered a *bona fide* one, and that it should be allowed.

Mr. Justice LAWSON said that a substantial addition to the duties was the only thing he could recognise as justifying an increase. According to the Act under which they acted they were bound “to ascertain and declare by order the amount of yearly income received by any such permanent curate.”

Lord MONCK said the policy of the Act was to compensate for personal vested rights, not to make provision for the future of the Church. The words “income received” being in the past tense, meant not what the curate was now receiving, but what he had been in the habit of receiving. The claim should therefore be disallowed.

LATE APPOINTMENTS OF CURATES NOT RECOGNISED (heard by
Viscount MONCK and Mr. Justice LAWSON, the 1st February,
1871.)

In re Rev. TIMOTHY C. O'CONNOR, Curate of Moyne, Diocese of
Cashel, Appellant.

The appellant claimed to be a permanent curate. He said that the incumbent of the parish was in very feeble health, and totally unfit to discharge the duties of his office. He had, previous to the appointment of the appellant, been compelled to ask the neighbouring clergymen to perform his duties. Mr. O'Connor further stated that he was ordained in November last, and he sought to be regarded as a permanent curate of the parish, which was very large, being, in fact, a union of parishes.

Mr. Justice LAWSON said he found, from the documents before him, that the Church population was only 41, and the rector's income was £449 5s. He did not appear to have previously kept a permanent curate, and Mr. O'Connor was appointed within one month of the time the Disestablishment Act came into operation. The discretion vested in the Commissioners under the 15th section as to determining the *status* of a permanent curate, was a difficult and delicate one. By the Act the

rector was to retain his power of appointing a curate up to the 31st December, 1870; it was for the Commissioners to decide in each case whether the appointment was one required by the exigencies of the parish, and made in the ordinary course of business, and which would probably have been made if the Irish Church Act had not passed. The claim must, therefore, be disallowed.

Viscount MONCK concurred in this judgment.

(Heard by Viscount MONCK and Mr. Justice LAWSON, the
16th May, 1871.)

In re Rev. EDMOND ROUNDS, Appellant.

This was a claim to be permanent curate of Kiltullagh, diocese of Tuam. The appellant had only been appointed in December, last. A curate, however, had been employed in the parish in 1869 and 1870, although not licensed. The parish was the second largest in Ireland, and up to the appointment of the present rector a permanent curate had been kept. The rector was at present unable to discharge the duties, owing to illness.

Mr. Justice LAWSON said the Commissioners could not allow the claim. The rector it appeared had an income of £600 a year, yet he never thought of keeping a permanent curate until he conceived that the Commissioners might pay him, which was fatal to the claim.*

Viscount MONCK concurred in this judgment.

HOUSES ALLOWED TO CURATES AS PART OF INCOME (heard by
Viscount MONCK and Mr. Justice LAWSON, the 1st February,
1871.)

In re Rev. RIBTON M'CRACKEN, Curate of Donaghmore, Diocese
of Dromore, Appellant.

The appellant claimed that his income should be increased from £100 to £130. He was appointed permanent curate in September, 1870, at a salary of £130, including the house. The claim was lodged for £100, and the house was put down at £30. Mr. Justice LAWSON had allowed £100, but he had not been allowed for the house.

The Court decided that Mr. M'Cracken was entitled to a contingent annuity of £30 in case he should be deprived of the house, inasmuch as by the agreement between him and his rector it was agreed it should form part of his stipend.

* This decision (and the preceding one in the case of Rev. Timothy O'Connor) illustrates the principle upon which the Commissioners acted, in holding that no newly-appointed curate was entitled to an annuity, unless having regard to the circumstances of the benefice, such appointment ought to have been made if the Act had not passed.

A CURATE'S ANNUITY TO BE EQUAL TO HIS ENTIRE INCOME (heard by Viscount MONCK and Mr. Justice LAWSON, the 2nd February, 1871.)

In re Rev. ROBERT HOLMES ORR, Curate of Stillorgan, Diocese of Dublin, Appellant.

The appellant had been curate of Ahascragh, county Galway, at a salary of £175 a year. In the year 1869 the Rev. Dr. Gray, rector of Stillorgan, offered him the curacy of that parish, at a salary of £120. He declined the appointment on these terms, but after some negotiation he agreed to accept the curacy at £120, and £80 to be contributed by the parishioners. The case had been partly heard, and it was allowed to stand over for the production of documents, to show that the agreement on the part of the parishioners to pay £80 was *bona fide*, and that Mr. Orr had actually received that stipend.

Mr. *Pilkington*, q.c., appeared for Mr. Orr, and produced the evidence required.

Mr. Justice LAWSON said the appellant had made out a clear case to have his claim for £200 allowed. It appeared that the claimant accepted the curacy on the understanding that he was to receive £200, no matter how that was to be made up. The policy of the Act was to give the curate an annuity equal to what he was actually receiving before the passing of the Act. They were satisfied that this claim was not an afterthought. The claim should, therefore, be allowed, with costs.

COMPENSATION TO TEMPORARY OR NON-PERMANENT CURATES. (The following cases were heard by Viscount MONCK and Mr. Justice LAWSON, the 15th and 16th May, 1870.)

In re Rev. R. B. KING, Appellant.

The appellant appeared in person, to sustain an appeal from a conditional order made by Mr. Justice Lawson disallowing his claim for compensation as a temporary curate. It appeared that he was ordained in March, 1835, but had only of late years been engaged temporarily, his last employment being in the above parish during 1870.

Mr. Justice LAWSON, in delivering judgment said he had refused the claim first, because he had nothing to satisfy him as to the *bona fide* nature of the engagement in 1870; but, on looking through his certificates subsequently, the Commissioners were of opinion that he had made a case for compensation at the rate of twenty years' service.

In re Rev. RICHARD FITZGERALD, Appellant.

Mr. *Pilkington*, q.c., appeared for the appellant, to sustain an appeal from a conditional order made by Mr. Justice Lawson, and said that Mr. Fitzgerald claimed compensation as a temporary curate. He was ordained in 1824, and was appointed to a curacy, which he held for thirty-one years. He held another curacy, but resigned at the death of his rector in 1862. He afterwards in 1869, or 1870, gratuitously undertook to discharge duties in his own parish, and while the rector was abroad he acted as temporary curate at a stipend. He had received payment for temporary duties before the Act was brought into Parliament at all.

The appellant was examined, and deposed that he had discharged the duties of the parish of Kilfergus, diocese of Limerick, for which he claimed, in February 1869, and was in charge of the parish the following year.

The Court decided that the appellant had established his claim.

V. MISCELLANEOUS DECISIONS.

COMPENSATION TO OWNERS OF ADVOWSONS.

*Arbitration.**

(Heard by the Right Hon. JOHN THOMAS BALL, Q.C., LL.D., M.P., Arbitrator for Appellants; the Right Hon. MOUNTFORT LONGFIELD, Q.C., LL.D., Arbitrator for Respondents; and GEORGE MAY, Esq., Q.C., Umpire, the 11th July, 1872.)

In re The Marquess of DROGHEDA, Patron of Benefice of Dunany, Diocese of Armagh, and the Earl of DEVON, Patron of Benefices of Mahoonagh and Newcastle, in the Diocese of Limerick, Appellants; The COMMISSIONERS of CHURCH TEMPORALITIES in IRELAND, Respondents.

Dr. *Battersby*, Q.C., and Mr. *Jellett*, Q.C., appeared on behalf of appellants. Mr. *Law*, Q.C., and Mr. *Porter* appeared on behalf of respondents.

It appeared that the appellants had lodged claims, pursuant to the 18th section of "The Irish Church Act, 1869," for compensation for loss of patronage of the benefices in question, and that the respondents had ascertained the amount to be paid, on a scale set forth in a memorandum submitted by their actuary, of which the following is a copy:—

"ADVOWSONS."

"*Question*.—What portion of the income of a benefice is to be considered as being allowed to incumbent for discharge of clerical duty, &c., and what portion is to be considered as what the patron could sell?

I have carefully examined the returns of advowsons in lay patronage.

The 40 Geo. III., c. 27 (Irish), indicates that in the case of a non-resident rector, the salary of the curate shall in no case be less than £80, unless the income from the benefice be less. If the population by last Census be 300, the salary to be £100; if the population be 500, the salary to be £120; if the population be 1,000, the salary to be £150.

These sums may therefore be taken as the minimum payment of clerical duty.

I divide advowsons into four classes:—

- I.—Population over 1,000:
 - (a.) Income from benefice over £300.
 - (b.) Income from benefice under £300.
- II.—Population 500 to 1,000:
 - (a.) Income from benefice over £240.
 - (b.) Income from benefice under £240.
- III.—Population 300 to 500:
 - (a.) Income from benefice over £200.
 - (b.) Income from benefice under £200.
- IV.—Population under 300:
 - (a.) Income from benefice over £160.
 - (b.) Income from benefice under £160.

Although the scale I have quoted indicates the minimum of payment for clerical duty, the incumbent would naturally expect that amount to increase with the income of the benefice.

I have made considerable inquiry into the subject, the result of which leads me to the opinion that in Ireland one-half of the net income of an incumbency should

* The principles laid down by the arbitrators in these typical cases were generally adopted by the Commissioners, save in some exceptional cases. See note as to the arbitration *In re Drumgoon advowson*, *post*, page 128.

be taken as what should be allowed to incumbent as remuneration for discharge of clerical duty and keeping up his position as incumbent, provided that the half was not less than proper remuneration for clerical duty; the other half, or (in case of incumbents with small incomes) lesser proportion, of net income constitutes what the patron in Ireland could have sold before the passing of the Church Act, and now has fair claim to be compensated for.

I would propose the following rule:—

Class I.—Population over 1,000:

- (a.) Net income from benefice £300 and upwards; one-half income to be taken as what patron could sell.
- (b) Net income under £300; the difference between £150 and income to be taken as what patron could sell.

Class II.—Population 500 to 1,000:

- (a) Net income from benefice £240 and upwards; one-half income to be taken as what patron could sell.
- (b) Net income under £240; the difference between £120 and income to be taken as what patron could sell.

Class III.—Population 300 to 500:

- (a) Net income from benefice £200 and upwards; one-half income to be taken as what patron could sell.
- (b) Net income under £200; the difference between £100 and income to be taken as what patron could sell.

Class IV.—Population under 300:

- (a) Net income from benefice £160 and upwards; one-half income to be taken as what patron could sell.
- (b) Net income under £160; the difference between £80 and income to be taken as what patron could sell.

As the right to present to a benefice, however small, must be considered as worth something, I would further propose that whenever the application of the foregoing rule would reduce the patron's share of income below one-tenth of the net income, the patron should be deemed, for the purpose of compensation, to be entitled to one-tenth of the net income.

Then from the capitalized value of what the patron could sell in each of the foregoing cases, taken at twenty years' purchase, the value of the incumbent's life interest therein as at 26th July, 1869—calculated by the Commissioners' Life Annuity Table*—is to be deducted, and three and a half per cent. interest is to be allowed on the sum so ascertained from that date to date of payment."

W. J. HANCOCK, F.I.A.

22nd July, 1871.

Counsel having been heard on both sides, and skilled witnesses having been examined, the following judgments were delivered by the Arbitrators:—

DR. LONGFIELD'S JUDGMENT.

Dr. Longfield.—There are three different claims to be settled to-day by arbitration—one on behalf of the Marquess of Drogheda, and two on behalf of the Earl of Devon. They are claims for compensation for the loss of advowsons of which the patrons have been deprived by the Irish Church Act, and for which, under the provisions of the same Act, they are entitled to compensation for the value of the advowsons. The matter, therefore, to be settled before us is, what is the value of these advowsons, or what is a fair sum to be given to the patrons as compensation for their loss? It is probable there will be many such claims, and the three that have been laid before us appear to have been taken as specimens, varying in some degree as to the value of the advowson, also as to their situation and other special circumstances. They have been laid before us with the view, I suppose, if possible, that we might

* See Table for Commutation of Life Interests, *post*, page 164.

fix on some principle of valuation that might prevent future litigation. With this view we have gone through the evidence and through all the tables furnished to us, and we have been somewhat mortified to find so very great a difference in the principles that were adopted in the calculations of what I may call the opposing parties. I say opposing parties, for although the Commissioners have no special interest in opposing, yet they were the parties on whom the duty was thrown of preventing the claimants from getting too high a rate of compensation. Mr. Watney, a very intelligent gentleman from England, with a good deal of experience, was examined, and stated the mode in which he made his calculations. It would seem that he valued the income, as if it were a fee-simple estate, at a price calculated to give a return of six and a half per cent. to a purchaser, the effect of which would be to value advowsons at less than other fee-simple estates, which are certainly worth a greater number of years' purchase. From that he deducts the value of the life of the incumbent, computed according to six and a half per cent. tables, and the difference was the value of the advowson, as he considered it. Then, when applying this to Irish advowsons, he reduced the rate of interest from six and a half to five per cent. He gave no reason for that, except, perhaps, that it was a compulsory sale. Then, having got that amount, he added ten per cent. more, on account of its being a compulsory sale. This appeared to us to be giving compensation twice over for that which properly ought not to be made the subject of compensation at all, except under special circumstances. Upon the other hand, a skilful actuary, Mr. Hancock, appeared on behalf of the Commissioners, and his principle of calculation differed exceedingly from Mr. Watney's view. He made from the income of small livings a deduction for the performance of the duties of the incumbent equal to what I might call the penal sum which any absentee rector might be compelled to pay to his curate; then he valued the residue as if it were a fee-simple property worth twenty years' purchase, and he then deducted from that the value of the life estate of the incumbent, valuing it as an annuity according to three and a half per cent. tables. Applying that principle to some very small livings, it would leave them no value at all. In fact, in one case of a small living, it would appear as if the patron would rather have to pay something to get rid of it. To prevent that inconvenient or absurd consequence from arising, when the living was very small, he gave ten per cent. as if that was the value of the living to be estimated. When the living was £300 or upwards, instead of taking a sum for a curate, he deducted one-half the income of the parish for the duties to be performed and for all other expenses incident to the possession of the living, and the remaining half he valued in the manner I mentioned, viz., taking it at twenty years' purchase for the fee, and deducting the value of the life estate, adjusting it according to the three and a half per cent. tables; and he gave as his reason for this latter deduction that the purchaser might wish to give that annuity to his friend pending a vacancy, and he could not buy that annuity on Government security or an insurance office according to any other table. That appeared to be an unsound principle, because it supposed the purchaser was master of the position, and that he had a right to say, "I must insist on this sort of security." But in cases of this kind the parties should be supposed to deal on equal terms. When you are valuing an annuity (or reversion, because one is a complement of the other), if you go to an insurance office to buy an annuity, you will have to pay a very good price for it; but if you have an annuity to sell, you will find the sum offered will be very different. Therefore, where there are two market prices, it did not

appear to us fair to the seller, who is deprived of his property, to put on him the market price that would be given if he were obliged to sell it for the payment of debt or otherwise. Now, perhaps I should mention the case of one living, to show how very remarkably these two intelligent gentlemen differ, and what little assistance they gave us by their calculations, although we benefitted by their arguments. They took the living of Dunany, and Mr. Watney, a respectable gentleman, valued that living at £1,148 17s. ; Mr. Hancock, on the other hand, adopting his own principle, valued it at £46 19s. 10d. ; so that one valuation given is more than twenty-four times the other valuation. That is not a case in which we can use the valuation and split the difference between them, because the difference between them is so great. The next course, then which we took, not forgetting the arguments used by these gentlemen, was this:—We took a list of the advowsons sold of which we could get any information, and these we divided into four classes. First class were the advowsons that were sold under Lord Westbury's Act, by which the government advowsons were sold, but with this rather singular condition attached to them, which is not attached to the sale of private advowsons, that a proportion of the purchase money was to go to the augmentation of the livings. A portion of it was to accumulate, but still added to the value of the living. Mr. Watney's view partly made allowance for that addition. I may add, if the whole was to accumulate, and Mr. Watney's calculation taken, the price of the living would be infinite, because as the whole sum was to be given back to you again, it would be a matter of perfect indifference what the price might be. If I was to buy a perpetual annuity, and get it, together with the full interest of my money, the value would be infinite. However, these advowsons, though I think of the classes furnished they were the fairest were sold under favourable circumstances, because they were the pick of a large number. The sellers were able to put their own price on them, and only sell those for which good prices were offered. If every living was sold, I should have then considered it would be a fair test ; but when only the pick were sold, and the seller was enabled to put on his own price, I think the price given under Lord Westbury's Act was a little too high.

The next sales of livings were had in the Landed Estates Court ; and for these livings, having had judicial knowledge, I can state that the price given was generally too small. There is no kind of property that suffers more by forced sale than an advowson—for this reason, amongst others, that it yields no income until it is sold. If an estate is sold, even if the estate is inadequate to pay the debts, the mortgagee has an interest in postponing the sale if the price is not adequate, because the rent goes to keep down the interest. But in respect of the sale of advowsons the case is different, and the intermediate fruit did not belong to the mortgagee, and this had a material effect in inducing the Court to sell one of these livings at a small value. The gentleman in possession was over sixty years of age. If that living had become vacant, the debtor could present a man of twenty-four to it, and thus take two-thirds of the value of the property away and give it from the creditors to the nominee of the insolvent debtor. I considered it a case in which the creditor, who, in fact, was not paid in full, had a right to insist that the property should be sold. I had evidence that the property sold afterwards for rather a larger sum. There was another case in which property of the kind was sold in the Landed Estates Court, and I was aware that I was selling it cheap. That was the living of Carrigaline. In that case I was willing to adjourn the sale, and the agent of the owner mentioned to me that it

was a solvent estate able to pay all the debts and leave a large surplus for the owner; but he was very anxious to wind up the transaction, and he preferred to sell it at much less than its value rather than have another sale, and he consented to a sale of the advowson for an inadequate price. We therefore consider, on the whole, that the sales in the Landed Estates Court would show too small a value for advowsons; and although not disposed to give too fanciful a price to the owner of advowsons on account of compulsory sales, we could not take the average of such sales as a fair mode of calculating the value of advowsons. The next class of sales were sales furnished to us in a separate list—sales by corporations in Ireland. They were directed to sell the livings; but these were like the case of debtor and creditor or mortgagor and mortgagee. The corporations could not present to livings until they were sold. The presentation would belong to the bishops, and the corporations would be naturally willing to sell to any parties they could get. Therefore, on the whole, we consider they give too low a value. The fourth list given to us was a list of the advowsons, of which information could be obtained, that were sold in England by auction, and it stood thus:—

With very great care I went over every one of them, and applied each system of calculation to them. I found the result and the observations accompanying these statistics were very fair, because they showed that in many cases the livings sold for half the price at which they were valued by Mr. Watney, who himself furnished this list. But we found that in livings apparently of the same value, taking into account the amount of the income and the age of the incumbent, that sometimes one living would sell for three or four times as much as others which were apparently of the same value; showing there were special circumstances affecting the value of the living, and that these special circumstances were more influential on the price than the circumstances disclosed in the tables furnished to us. In this position we have nothing to do but to strike out a principle as well as we can; and we find that if we made a rateable reduction for the performance of duties from the value of the livings, it would come to too high a price for small, or to too low a price for large livings. We therefore thought it necessary to make some fixed deductions applicable to every living: and the deduction we finally settled on making was £40 a year. It would, no doubt, be difficult to say what principle led us to £40 rather than £30 or £50; but the reason is, that it gives a result more corresponding with the actual sales that have taken place. One sum of £40, be the living large or small, is the first deduction. A small living has some value, even if the income is only a fair remuneration for the services to be performed, because we know that in the case of professions something will be always given for the status and entrance into the profession. An ensign in the army is not overpaid at 5s. 6d. a day; yet the custom heretofore was that he should pay a large sum for his commission. In the same way a curacy or small living gives a man an important position, and it would always sell for something. We deduct £40, in the first instance, from the value of the living, whether large or small, and from the residue we deduct a sum of 45 per cent. I shall explain this by an example. We will suppose the living was £240 a year; deduct £40, and that reduces it to £200; 45 per cent. reduces it to £110. Having made these deductions, we then take the value of the fee at 22½ years' purchase. This is the price which the Commissioners are obliged to charge if they were selling the tithes, which is the least valuable part of the property, and, in fact, we suspended our opinion to see would the Government reduce the price of tithes from 22½ to 20 years' purchase.

I have now given the mode of valuing the fee, taking the interest at about $4\frac{1}{2}$ per cent. ; and we value the life estate which is taken out of the fee, on tables computed at $4\frac{1}{2}$ per cent. We consider that a fair way of dealing with this matter, is to allow for the value of the fee about the same rate of interest that we allow for the life estate. That is a mode of calculation which, we think, will give the fair value of advowsons in Ireland, unless there are special circumstances to add to the value. There are some special circumstances which did not escape our notice, and which do reduce the value of all advowsons in Ireland. It is not so pleasant to have a population who look on you as a heretic, instead of a population who look on you with respect and follow your guidance ; and although some people say the clergy have less to do for not having many Protestants in their parishes, yet a good, zealous clergyman would prefer to have parishioners who would follow his advice, rather than those who would despise him and hate him. Next, the market for advowsons is smaller in Ireland than in England, on account of the large Roman Catholic population. There is, in fact, a large population to whom an advowson would be of no value at all ; no relative or friend would be fit to fill it, and as the law stood they would not be permitted to present anyone to it. Thus there is the fact that a large porportion of the population would not buy an advowson in Ireland, and we thought we should give less value for advowsons in Ireland than what they are worth in England. Applying the principle of special value in special cases, we thought in the case of Newcastle there were two additions we should make to the value—one, £28 a year, which Mr. Currey, the agent of Lord Devon, said would be a fair additional value to demand for the glebe—such a value as a man might ask without exposing himself to odium. This is distinguished a little from the case of clergymen commuting their annuities. We were not favourable to recklessly increasing the compensation to be given in the way of annuity to a clergyman who himself set the land to tenants, and thus showed what value he put on it, and also that he was contented with that value. As the increased value is not to come in until the vacancy takes place, we thought it fair to add the £28 a year, being satisfied from the evidence of Mr. Currey that it was a fair sum to add to the present rental. We considered that £28 a year as a part of the clergyman's income in deducting the value of the life estate, although he does not get it, as the enjoyment of it by the next incumbent is equally delayed. We also thought that in this particular case it would be fair to add 10 per cent. for compulsory purchase—for this reason, that the patron's house is situate in the parish, and therefore the advowson has a value for him which it does not possess in the market, and 10 per cent. for compulsory purchase is a fair addition to make. It undoubtedly has a value for the patron that it would not have in the market. There are other cases in which an advowson might possess a special value. For instance, the patron might wish to present it to a young member of the family, and that would also be a fair case in which to make an addition to the value when the living was of great value. This was an additional reason why we thought in cases of valuable livings a small per-centage to the value might be added, as the forty-five per cent. becomes a very heavy deduction in cases of livings of large value. When a living is £600 a year we think there should be some per-centage added, because the forty-five per cent. we deduct becomes a high sum to deduct for services in case of such a living. We thought as there was a slight difference in figures as to pounds, shillings, and pence, that it would be better we should give our judgment, stating the principle of the calculation, and

then let the figures be filled up afterwards. As I have now stated the principle on which we proceed, there can be no doubt about the figures, and if there is we can readily correct them. It may be observed that the results of our principles will not differ much from Mr. Hancock's when the livings are of medium size. The great difference in the valuation of Newcastle is caused by the special circumstances proved by Mr. Watney, which were not before Mr. Hancock when he made his calculations.

DR. BALL'S JUDGMENT.

Dr. Ball.—If this were not an arbitration, I should merely express my concurrence with the views which have been stated by Dr. Longfield; but, as arbitrators are appointed by the parties, it may be more satisfactory to them that each should express his own reasons for the judgment. The rule which has been suggested by Dr. Longfield, whereby to measure the compensation to be paid to the owners of advowsons under the Irish Church Act, is that—first, a deduction should be made of a fixed sum of £40 from the net annual income of the benefice; next, that there be further subtracted 45 per cent. from the balance which remains of the net income after deducting the £40; then that the residue of the annual income should be multiplied by $22\frac{1}{2}$, and that from the amount thus calculated there be taken the value of the life interest of the incumbent calculated upon $4\frac{1}{2}$ per cent. tables. The result is, in ordinary cases, the compensation to be paid. This rule, however, is to have in certain cases two additions to it. In the special case of the owner residing in the parish, a further allowance is to be made of 10 per cent., calculated upon the value as already ascertained; and where the living is above £600 a year, some additional per-centage should also be allowed.

I shall now state the reasons which induce me to think this rule a fair and equitable measure of compensation to the owners of advowsons. 1st.—It takes $22\frac{1}{2}$ years' purchase, or somewhere about $4\frac{1}{2}$ per cent. interest, to represent the proper measure of the value of property and of money. For the present purpose I think this reasonable, because the Irish Church Act fixes the redemption price of tithe rentcharge at $22\frac{1}{2}$ years' purchase, without deducting poor rate—that is, it values property of this character at even a higher rate than we allow. 2nd.—It is plain some deduction is, from the nature of the property, required in order to represent its relative proportion in value to lands producing the same amount. An advowson confers no right of personal enjoyment upon its owner, except in the occasional instance of his being in holy orders. It is a mere right of patronage, to be exercised in favour of persons qualified in a particular manner, and who are bound to discharge duties more or less laborious. A right of patronage cannot be of equal value with a right of enjoyment. What is to be taken off to represent this deduction is not easy to determine; but, having regard to the high rate of purchase we are allowing, I think 45 per cent. a fair proportion. This deduction by itself would not, however, meet the entire justice of the case, for it is clearly established that livings of small income are not proportionally as valuable as livings of large. Therefore, a deduction must be further made, which shall press more heavily upon the smaller livings. From the nature of the case, a fixed sum must have this effect; and I concur in thinking that £40 is a fair amount to represent such a deduction. The same reasons which, in small livings, called for this deduction, demand in the large ones a compensating addition in the nature of a per-centage to represent their proportionally increased value. The number of years' purchase adopted in the rule is justified by the

provision of the statute to which I have already referred; and the deduction of the life interest of the incumbent follows from the nature of the property, which is in effect a reversionary interest. In the provision allowing 10 per cent. additional where the owner himself resides in the parish, we act upon the principle which appears to me established in cases of compulsory sales—viz., compensating for special personal advantage. I think it cannot be denied that it is a personal advantage that the patron can nominate the person whose religious ministrations he is to receive, and into whose society he must be frequently brought.

Reasons, however, of the kind which I have adduced, are to be subject to the test of experience. Accordingly, I have applied the rule to several instances of benefices that have been sold both in England and Ireland, and have compared the results with the actual prices realized on these sales. The result has been to confirm the reasonableness of the rule. This statement, however, I must accompany with the observation that advowsons are a species of property much affected in their value by exceptional and occasional circumstances.

Except where we have added to the amount, the increase is to be taken as estimated by the Commissioners upon commutation. Costs and expenses of the arbitration ought to follow the result, both because the parties have succeeded in raising the amounts awarded, and also because these particular cases were selected as representatives of classes, and to have the principles fixed on which they are all to be decided.

At a subsequent period the Arbitrators stated—that the addition to the rule which they suggested to the Commissioners, as regarded the additional per-centage to be allowed in valuing large benefices, was, that any benefice of £600 a year should have an addition of £5 per cent., and that for every £100 a year above £600 there should be a further addition of £1 per cent.; that both this per-centage and the allowance of 10 per cent. for such exceptional circumstances as the residence of the patron in the benefice, were not to be allowed in the same case; that the calculation was to be made as of the date of the passing of the Act, (26th July, 1869,) and that interest at the rate of £4 per cent. per annum (the rate fixed by the Chancery Rules) was to be paid from that date to the date of payment of compensation.* The result of the principle as applied to the three claims before the Arbitrators was as follows:—

	Amount claimed, as estimated by Mr. Watney.			Amount allowed by Commissioners.			Amount awarded.		
	£	s.	d.	£	s.	d.	£	s.	d.
Dunany Benefice, .	1,148	17	10	46	19	10	395	15	4
Mahoonagh, ,, .	4,222	0	0	1,864	0	0	2,259	5	8
Newcastle, ,, .	4,332	0	0	1,057	0	0	3,222	0	0

* Note.—The following is the only case in which these principles were not substantially adopted:—

In re advowson of Drumgoon (Cootehill) in the Diocese of Kilmore, Brindley Hone, Esq., the Patron (as Trustee for the Reverend Thomas Moore, the equitable owner), appealed to arbitration for the following reasons, viz.:—the bad state of health of the incumbent of the benefice (the Reverend Hugh Murray), who, he stated, was *in articulo mortis* at the date of the passing of the Irish Church Act; and also the fact that the equitable owner, being in Holy Orders, could present himself, through the medium of his trustee.

The case was heard on the 26th of June (and again on the 30th June), 1875, when the above stated questions only were submitted to the arbitrators, though subsequently during the hearing others were introduced by the claimants' counsel and were considered by the arbitrators.

The Commissioners disputed the facts as stated in the first objection, but, admitting that Mr. Murray's state of health was very bad, they added four years to his life for the purpose of calculating the amount of compensation to be paid for the advowson,

On account of the second point they offered to pay £10 per cent. additional on the value of the advowson, but, in accordance with the award of Drs. Longfield and Ball (see preceding case), they refused to allow at the same time the additional percentage, which would otherwise have been paid by reason of the yearly income of the benefice being over £600.

The arbitrators in this case (Mr. May, Q.C., and Dr. Traill, F.T.C.D., with Rev. J. A. Galbraith, F.T.C.D., as Umpire), declined, however, to follow the award of Drs. Longfield and Ball, not only in this rule, but also in others of a general nature which materially affected the deduction for the performance of duty.

They also decided that an additional sum should be paid as compensation on account of the state of Mr. Murray's health.

By the award, dated 16th July, 1875, the compensation was increased from £7,148 3s. 6d. to £9,463 11s. 8d. exclusive of interest.

Messrs. W. D. Andrews, Q.C., G. Fitzgibbon, Q.C., and John Murray, instructed by Messrs. Falkiner and Hone, appeared for the claimant.

Messrs. Richey, Q.C., and George Atkins, instructed by John Ball, LL.D., represented the Commissioners.

N.B.—As Drumgoon advowson was a special case, it is probable that the Commissioners will in future cases continue to adhere to the principles contained in the award of Drs. Longfield and Ball, which was made after a careful consideration of the evidence of skilled actuaries, and of the statistics which were accessible on the subject.

DECISION BY COURT OF CHANCERY IN ENGLAND AS TO RIGHT OF EXECUTORS OF LAY PATRON TO RECEIVE COMPENSATION MONEY FOR LOSS OF ADVOWSONS (heard by the Lords Justices of Appeal in England, in the Court of Appeal in Chancery, Lincoln's Inn, the 28th July, 1875).

*Frewen v. Frewen.**

In this case the late Mr. Thomas Frewen (the testator), was the owner of five Irish advowsons, viz.:—Ballinacourty, Rahoon, Shrute and St. Nicholas (Galway), in the diocese of Tuam, and Innishannon, in the diocese of Cork. By his will, dated the 26th September, 1867, he devised three of them in favour of one set of persons, and two in favour of other persons. The Irish Church Act received the royal assent on the 26th July, 1869, and the testator died on the 14th October, 1870, without altering his will; *and the question was, whether the compensation moneys subsequently paid under the Act belonged to the persons to whom the advowsons were devised by the will, or went to the executors of the testator as part of his general personal estate.* The Act in section 10 enacts that, save as thereafter mentioned, no person shall after the passing of the Act be appointed to any benefice in the Church of Ireland; by section 18 it enacts that, as soon as may be after the passing of the Act, the commissioners under it shall ascertain the compensation to be paid to any person who shall, within three years, make application in respect of any advowsons "vested in such person and affected by the provisions of this Act;" and by section 66 it enacts that if any vacancy shall occur in any benefice between the date of the passing of the Act and January 1, 1871 (the day on which, by section 2, the union between the Churches of England and Ireland was to be dissolved, and the Church of Ireland to "cease to be established by law"), such vacancy might be filled up by the person who would have been qualified to fill it up if the Act had not been passed. In January, 1870, the testator gave instructions that an application should be made on his behalf to the commissioners under the Act for compensation in respect of his ad-

* See leading article commenting on this case, in the *Irish Law Times*, of 6th November, 1875 (9 I. L. T. and S. J. 634).

vowsons; but before such application was sent in he died. After his death an application was made on behalf of the persons in whose favour the advowsons had been devised by the testator, and the commissioners ascertained the amount of the compensation at the sum of £8,979 7s. 5d. together with £1,688 4s. 4d. for interest thereon at 4 per cent. from 26th July, 1869, to the date of payment; but they made such sums payable, not to the devisees, but to the executors of the testator.

On the 30th June, 1875, a special case was presented to the court, in order to determine who was entitled to the money, and was decided by Vice-Chancellor Hall, in favour of the executors, thus upholding the decision of the commissioners. Against this decision of the Vice-Chancellor's, the present appeal was brought by the devisees under the will.

Lord Justice JAMES said that there could really be no doubt about the question. The Act destroyed the advowsons, though the Church was not disestablished till almost a year and a half after the passing of the Act, yet the property which was vested in the testator at the time when the Act was passed had its character entirely changed, and was practically destroyed, the right to compensation being substituted for it. The Commissioners were to ascertain the compensation as soon as possible after the passing of the Act, and were not to wait until the time of the disestablishment of the church. In such a case as this there was no equity as between the personal representatives and the devisees of the testator. The Act upon its passing converted that which was an advowson into a mere right to receive compensation, and that compensation when paid, belonged to the executors. The Vice-Chancellor's decision "that there was an *ademption* of the devise of the advowsons by the operation of the Act," was quite right.

Lord Justice MELLISH concurred.

Counsel for the appellants, Messrs. *Karslake*, q.c., and *Deere Salmon*.
Counsel for the respondents, Messrs. *Greene*, q.c., *Dickinson*, q.c.,
Ince, q.c., and *Macnaghten*.

COMPENSATION FOR PROPORTION OF RENEWAL FINES (heard by Viscount Monck, Mr. Justice Lawson, and the Master of the Rolls, the 29th October, 1872).

In re The LORD PRIMATE, Appellant.

Dr. Ball, q.c., m.p., appeared on behalf of the Lord Primate, and *Mr. Law*, q.c., with *Mr. Naish*, appeared on behalf of the Crown.

In this case it appeared that the appellant claimed compensation for the loss of renewal fines alleged to have been sustained through the length of time allowed to elapse between the time he sent in his claim for commutation, and the time when the commutation money in respect of his life interest was paid to the Representative Church Body. The gross income of the Primate's see was £16,478, of which £9,932 were rents, and £5,207 renewal fines. The fines were payable upon two gale days, viz., on the 1st of May and 1st November in each year. The commutation claim was lodged in February, 1871, and the order for payment of the commutation money was issued on the 9th of October following, and in the mean time the Primate had retained possession of the estate, and, consequently, received the May fines of that year. The November fines were not, however, paid to the Primate, in consequence of the date of the order, and it had been ruled by Mr. Justice Lawson

that appellant was not entitled to a proportionate part of fines, from which ruling the present appeal was brought.

Dr. *Ball*, on behalf of appellant, complained that in consequence of the delay of the order of the Commissioners, his Grace had been deprived of the November fines, which were almost due, and for the loss of which no allowance or compensation was made in estimating value of appellant's life interest; and also contended that as it would have been in the Primate's power to have obtained a much larger amount of fines before the expiration of this term, if, as many of the tenants wished him to do, (although he did not feel that he ought to do so,) he had renewed their leases for 21 years from 1st August, 1871, it was but equitable and reasonable that he should be made some allowance for the disadvantages to which he was subjected. Counsel further submitted that the commuted annuity should have commenced to accrue from the date of lodgment of commutation claim, the contract having been then entered into, and referred to the Commissioners' decision in the case of the representatives of Bishop Verschoyle.

Mr. *Law*, q.c., and Mr. *Naish* followed on behalf of the Crown, and upheld the previous order, contending that the Act contemplated the very delay complained of.

The MASTER OF THE ROLLS gave judgment, and said that the 23rd section is not to be considered in the light put forward by Dr. Ball. The Commissioners are to purchase, by commutation, the life interest of an ecclesiastical person, not for an annuity, but for a capital sum. From the day the commutation money was paid over to the Representative Church Body the estate became solely the property of the Commissioners. But with regard to the date of the agreement, it was fixed as the date at which all commutations took place was fixed, by a most proper and an invariable rule of the Commissioners—namely, the day on which the commutation claim was lodged. The Primate's interest was calculated and paid for, taking the value on the age attained on the birthday previous to the date of lodgment of claim; but, as very often happened in ordinary affairs, the Commissioners allowed the vendor to retain his current interest in the estate and to receive the rents and regular fines up to the gale day previous to the time at which payment was made of the capital sum. These rents and fines were undoubtedly more valuable than the interest of the money would have been if the money had been paid over the day after the claim was lodged. The Primate was, therefore, in no way injured by delay of payment, and the complaint of the appeal was virtually a complaint that payment was made too soon and not too late. The appeal must, accordingly, be dismissed, and the previous order affirmed.

Viscount MONCK and Mr. Justice LAWSON concurred in this Judgment.

(Heard by Viscount MONCK and Mr. Justice LAWSON, the
16th May, 1871.)

In re the Representatives of the late Right Rev. HAMILTON VERSCHOYLE, D.D., Lord Bishop of Kilmore, Elphin, and Ardagh, Appellants.

Dr. *Ball*, q.c., M.P., appeared on behalf of appellants to sustain an appeal from a conditional order, disallowing the claim of the representatives of Bishop Verschoyle for payment of proportion of renewal fines alleged to be due up to the date of the Bishop's death. Counsel admitted that if the Irish Church Act had not passed, the representatives

would not have had any claim on a newly appointed Bishop, but contended that the claim was a proper one to be paid by the Commissioners under the 55th section of the Act, inasmuch as under the 66th section the new Bishop was not entitled to be paid a greater sum than a proportionate part of the net annual income of the see estates, which were vested in the Commissioners on the 28th of January, 1870.

The Commissioners having heard the arguments of Mr. *Law*, q.c., and Mr. *M. J. Barry*, who appeared on behalf the Crown.

Mr. Justice *Lawson* delivered judgment, and said the question raised was whether the representatives of the Lord Bishop of Kilmore, who died on the 28th of January, 1870, were entitled, either under the ordinary law, or under the provisions of the Irish Church Act, to a proportion of the fines due upon that day. It had been admitted by Dr. *Ball*, that if the Irish Church Act had never been passed, the late Bishop would not have been entitled to any portion of those fines, but the question was whether the then existing law had been altered by the Act. The 55th section was the only one which seemed to regulate the question raised. That section appeared to be confined to rents, interests, and other rents payable at the time of the vesting of the property in the Commissioners. Thus, compensation had not become payable until that time, and, therefore, the case did not fall within that section. It had then been sought to bring it within the subsequent section providing for temporary vacancies. The Commissioners, however, were of opinion that this was a question that must depend upon the ordinary law. The Irish Church Act, they held, did not intend to confer any benefits upon the representatives of a deceased Bishop, which they had not been in the custom of receiving under the law as it formerly stood. The Commissioners were of opinion that their former ruling was right, and they therefore confirmed it.

Viscount *Monck* concurred in this judgment.

An application for costs was refused.

ANNUITIES AND COMMUTATION OF PRESBYTERIAN MINISTERS (heard by Viscount *Monck* and Mr. Justice *Lawson*, the 22nd December, 1870).

In re Rev. *JOHN HEMPHILL*.

Dr. *Ball*, q.c., m.p., who appeared for the Rev. Mr. *Hemphill*, said the appellant in this case was the minister of the Union-road Presbyterian Church, Magherafelt, and the question to be decided was whether the congregation of that Church, who had been declared to come under the Act, were entitled to commute at present, or whether they must allow a certain period to elapse before they could do so. Counsel did not know whether there were other congregations in a position similar to that in which the present stood, but he was led to believe there were, as the Moderator was very anxious concerning the decision of the Commissioners. There were four qualifications which entitled a congregation to obtain the *Regium Donum*. Firstly, there must be a house of worship; secondly, there must be twelve families in connexion therewith as worshippers; thirdly, there must be an ordained minister; and fourthly, the house of worship, the congregation, and the minister must pass three years' probation as a test of the *bona fide* nature of the claim to the grant. The claimant is minister of a congregation, but has not fulfilled the whole of the necessary conditions. Although he is an actual minister now serving, the time for his annuity would not begin until the probationary period had run out. Counsel contended that the meaning of

the provisions of the Act was to give the minister the prospective right to the annuity which he could claim when his probationary time ran out. The whole question, granting that there was a deferred payment of the annuity, was, could not the minister anticipate that annuity for the purposes of commutation? It was plain that the Act meant to allow commutation, although the beginning of the payment was deferred.

Mr. Justice LAWSON said the Act gave the present grant of deferred annuity, but the person's ultimate right to get the annuity was that he should at the proper time be minister of a congregation; but if he died before that time, he would not have any right at all.

Dr. Ball, whilst admitting that, contended that if they assumed, for the sake of argument, that all the ministers had the three years' probation still to serve, and that they could not commute until they had fulfilled that condition, then the object contemplated in the Act would be defeated, for commutation could not take place until three years had elapsed.

Mr. Justice LAWSON.—The words of the section of the Act are:—"And shall as from that time pay to the minister of each such congregation." That means to the person who is at that time minister of the congregation. I admit that that would be qualified by the subsequent words, "no minister placed in a congregation for the first time," &c. But suppose he had been in a congregation previously, but had been transferred to another congregation, he might say, "I have always belonged to a congregation."

Dr. Ball.—I think, to be entitled, the person must remain in the same congregation as he had previously occupied.

Mr. Justice LAWSON.—I do not think so. The annuities are all the same, so that there would be no difference in the amount.

Viscount MONCK.—I conceive there is nothing to prevent a minister being transferred to another congregation in two years hence, and then claiming from that congregation.

Mr. Justice LAWSON.—There would be an advantage in that, and I do not see why, if a minister dies, the congregation should not be at liberty to procure a minister from another place under that condition.

Dr. Ball.—Certainly, that is a matter of great importance. I had observed myself that the Act spoke of the minister of a congregation, and not of the congregation.

Mr. Justice LAWSON.—You see, if we allowed this clergyman to commute, the clergyman who succeeds him would also have the right, when the time arrived, for making the claim.

Dr. Ball.—The entire question turns upon the wording of the section having reference to the subject. The General Assembly desire commutation, and it is their interest to have as many interests as possible dealt with simultaneously. They, therefore, desire a ruling on the subject.

Judgment having been reserved, was delivered on 3rd February, 1871, as follows:—

Mr. Justice LAWSON said that at first the Commissioners were under the impression that this annuity would not arise until certain conditions should be performed, and that they could not allow Mr. Hemphill to commute until they were complied with, and until the annuity became a personal one, because they were of opinion that some other person might claim at the time the deferred annuity came into effect. Dr. Ball, however, had satisfied the Commissioners that there could be no other person to claim, and they would, therefore, allow Mr. Hemphill to commute in the ordinary way.

Viscount MONCK concurred in this judgment.

(Heard by Viscount MONCK and Mr. Justice LAWSON, the 15th of May, 1871.)

In re the Rev. JOHN M'NAUGHTEN, Appellant.

The appellant, who was minister of the Presbyterian congregation, Rosemary-street, Belfast, sought to be allowed to commute for the *Regium Donum*. The claimant appeared in person, and stated his case, which, he said, did not come within the case of a new congregation under probation, for his church was one of the oldest, and had always been in receipt of the *Regium Donum* down to 1849, when he became minister of the congregation. He was formerly a minister of the Established Church in Scotland. He said he could prove that his congregation had fulfilled all the conditions necessary for obtaining the *Regium Donum*, and although he had never applied for it, lest his doing so might be considered an abandonment of the principles which caused him to leave the Church of Scotland, yet he was entitled to receive it. He would not gain anything by obtaining *Regium Donum*, but he simply desired that the congregation might have the benefit of it.

Mr. Justice LAWSON.—You claim under the clause that the congregation has fulfilled all the conditions necessary for obtaining the money?

The Rev. Mr. M'Naughten.—Yes; I could have claimed the money at any time I pleased, but did not do so for the reasons I have stated.

The Commissioners allowed the appeal.

DECISIONS AFFECTING COMPENSATION FOR RIGHTS OF SUCCESSION TO BENEFICES.

In re the APPEAL of the FELLOWS, in HOLY ORDERS, of TRINITY COLLEGE, DUBLIN (heard before Viscount MONCK, Mr. Justice LAWSON, and the MASTER of the ROLLS, on the 3rd of June, 1873).

The appellants in this case claimed compensation for deprivation of the right of succession to various livings; the appointments to which they were entitled to, before the passing of the Act, in virtue of their respective positions.

Mr. Pilkington, q.c., and Mr. Madden appeared for the appellants.

The Solicitor-General and Mr. Richey, q.c., appeared for the Crown.

Judgment having been reserved, was delivered on the 20th December 1873, when the MASTER of the ROLLS said:—

In this case several of the Fellows of Trinity College in Holy Orders, namely, the Rev. Mr. Stubbs, the Rev. Mr. Gray, and the Rev. Mr. Mahaffy, have appealed from a decision of Mr. Justice Lawson, who disallowed their claims to compensation which were made under the 46th section of the Irish Church Act, 1869. The facts upon which those claims were made, and upon which this appeal rests are not disputed. Under ancient patents, or grants from the Crown, the Corporation of Trinity College was, at the passing of the Irish Church Act, in 1869, the owner of a considerable number of advowsons; the next presentation in each of which, upon avoidance, would be tendered to the Fellows of the College in rotation, according to seniority, in conformity with a usage of such ancient standing and such uniform observance, that we may take it to have the force of law. Several of these livings exceed in annual value the income derivable from any of the fellowships which the Appellants

enjoy; and, therefore, it may be taken that if the Irish Church Act had not passed, there was a possibility or a probability, of one of those livings being tendered to the Appellants, or some one of them, varying more or less, according to the age and health of the incumbent for the time being, and of the expectant.

We are disposed to think that this right, though one somewhat difficult of estimation, is a right of succession within the true meaning of that term; and, therefore, the question is, whether the Irish Church Act has given the right of claiming compensation for the loss thereof. It is clear enough that a Fellow of Trinity College in Holy Orders is neither the holder of a benefice nor the holder of a cathedral preferment; giving these terms the fullest significance, and the interpretation of them in the Irish Church Act is of the widest character. But it is argued that they were ecclesiastical persons, and, therefore, that they came precisely within the letter of the 46th section of the statute, and that as such they are thereby given the right to claim compensation for the loss they sustain by the right of presentation being taken from the College.

This question then turns entirely upon the true construction of the statute. Now one of the very first canons of construction in reference to the interpretation of a statute is, that general terms made use of in it are to be construed with regard to its context; and nothing can be so opposed to principle and authority as the abstract assertion that, because a general term, according to ordinary meaning, includes or embraces a particular thing or class within it, it must have that meaning in any statute or written instrument in which it happens to be used. No doubt, as a general rule, the ordinary grammatical meaning is to be given; but the context of the statute or written instrument can always serve to show—nay, more, to demonstrate, that the term is used in a more restricted or different sense than understood ordinarily or in popular signification. Often in a statute, words which, standing by themselves, are capable but of one wide and clear construction, are shown, by reference to other portions of the same statute, and sometimes actually by reference to statutes in *pari materia*, to have a meaning so restricted and different from that which a mere perusal of them in the place where they are found would indicate, that the restricted and fettered interpretation of them which is enforced becomes perfectly startling to the unprofessional reader, until the reasons for such interpretation are clearly laid before him. Lord Justice Turner, the very highest authority, in *Hawkins v. Gathercloe*,* after observing that in construing Acts of Parliament the words which are used are not alone to be regarded, and that regard must be had to the intent and meaning of the Legislature, says that the best summary of the law upon this subject is to be found in the following passages, which are quoted from *Stradling v. Morgan* in *Plowden*, vol. I., p. 199, “in which it is said that the judges of the law in all times past have so far perceived the intent of the makers of statutes, that they have expounded Acts which were general in words to be but particular;” and after referring to several cases, the report contains the following remarkable passage, at p. 205: “From which cases it appears that the sages of the law heretofore have construed statutes quite contrary to the letter to some appearance, and those statutes which comprehend all things in the letter they have expounded to extend but to some things, and those which generally prohibit all people from doing such an act they have interpreted to permit some people to do it, and those which include any person in the letter they have adjudged to reach some persons only; which expositions have always been founded upon the intent of the Legislature which they have

* 6 De G., M.N. & G., p. 21.

collected, sometimes by considering the cause and necessity of making the Act, sometimes by comparing one part of the Act with another, and sometimes by foreign circumstances; so that they have ever been guided by the intent of the Legislature, which they have always taken, according to the necessity of the matter, and according to that which is consonant to reason and good discretion." Taking the law as so settled, let the statute and question be examined in its entirety and in detail. It is perfectly manifest that every ecclesiastical person, in the wide sense of that term, was never intended to be included in the provisions of this Act of Parliament. If that were so, one would expect to find clauses for the compensation of such persons, but none such exist. The compensation claims, apart from the 46th section, are carefully worded, so as to embrace only the special classes of "ecclesiastical persons" therein particularly described, which are: "Every holder of any archbishopric, bishopric, benefice, or cathedral preferment," in or connected with the Church which was about to be disestablished, and every curate, as defined by the 15th section of the Act; and it seems a strange proposition, that the Statute in its 46th section has thrown its apparent policy to the winds and numbered within it *every ordained clergyman*. Now one of the consequences of holding this position would be, that an ordained clergyman who had purchased an advowson before the passing of the Act, would, because he had the right to present himself on the next vacancy to the benefice, be entitled to compensation for his right of succession; while the same person would, as a matter of course, under the 18th section, get full compensation for the loss of his advowson, which would include in it the same next presentation, thus getting compensation twice over for the next presentation. In truth, the 46th section, if one regards its provisions and the interpretation clauses of the Act, plainly seems to indicate that the right of succession must be one flowing from or connected with some office or ecclesiastical preferment in the Church about to be disestablished; and this will appear more clearly by examining the several sections of the statute in which the term "ecclesiastical person" occurs. The first section in which this term occurs is the 16th, where the use of the term is by the very context limited in its meaning and application. The words are: "Without the consent of the ecclesiastical person under whom such sexton or other officer may be serving at the time of the application being made for commutation."

In the 20th section it is used twice, and there it is equally plain that it is used in a restricted sense. In section 23 it is again used in the same way as only including those ecclesiastical persons entitled to commute, and who have agreed to commute. Again, it is used in the 27th section in the same restricted manner. The use of the term in the 30th section is a strong instance of the same limited meaning assigned to it in the Act of Parliament.

Then comes the 46th section, which is as follows:—"The Commissioners shall ascertain whether the chancellor and prebendaries of Christ Church, Dublin, or any other ecclesiastical persons, are or are not entitled to any right of succession in the benefices of Kilcullen, Kildare, Saint Mary, Saint Thomas, and Saint George, Dublin, or any other benefice or benefices, and if entitled, shall award to them respectively such sum in compensation for the same as shall seem to them just."

Now, entirely apart from the interpretation clause, I should, on the general rules of construction, be prepared to hold that, inasmuch as the right of compensation in the *instances quoted* in the section is expressly given as connected with offices or preferments in the Church, the words "or any other" ought to receive interpretation according to the rule

"*ejusdem generis*;" for that construction alone would make the meaning of the 46th section to be in unison with all the other provisions of the statute; why, if ALL ecclesiastical persons were to be compensated for supposed loss of succession should the language of the statute be so peculiar? But when the interpretation clause is examined it will be found that "ecclesiastical persons," having explained itself by the context all throughout the statute for the first time in this 46th section, requires a meaning to be given to it, partly restricted and partly extended, which is answered by the interpretation clause, showing that "ecclesiastical person" must be construed as one holding a benefice or cathedral preferment as defined by the statute, and out of, or by virtue of which the right of succession springs. Now this view is not merely aided, but actually enforced, by the following considerations:—The Fellows of Trinity College claim their right of succession, not by virtue of any benefice or cathedral preferment, but simply by their being members of a lay corporation entitled to the advowsons, whose usage has been to offer the next presentation to the senior member of the corporation holding the position of Fellow, and who being in Holy Orders is competent to fill the benefice. The Act of Parliament, by its 18th section, gives to the corporation itself the fullest measure of compensation for the entire advowson, which of course covers the very next presentation, to the right of succession to which compensation is claimed by individual members of the corporation. It seems to me that the Fellows of Trinity College, though in Holy Orders, are not entitled to claim compensation under the Act; in other words, that the claim for compensation by the individual members of the corporation cannot be made good against the property vested in the Church Commissioners, but is, if it at all exists, a matter of adjustment between them and the corporation itself. A good deal of reliance during the argument was placed on the words in the recital in the statute, viz.:—"all just and equitable claims." I do not think that this recital, having regard to the way in which it is used, helps the contention; but it would appear more just and equitable that where the entire advowson vested in the corporation is compensated for by payment in full to the corporation, a right to a next presentation, vested in a member of that corporation, should be adjusted by the corporation, out of the funds it has got as compensation, rather than that the same thing should be doubly paid for, an intention which it is most difficult to impute to the legislature. It appears to me, that to hold that the words "ecclesiastical persons" in the 46th section are to be restricted to persons holding a benefice or cathedral preferment, as defined by the Act, accords with the general intent and provisions of the statute, and is, having regard to the interpretation clauses, and the rules of construction I have referred to, absolutely required.

Nothing is of such frequent occurrence in our reports as words used in a statute, apparently in a most general sense, being restricted in their meaning. These cases are almost countless. I have selected a few of them which stand in different points of view, but the principles of which converge to illustrate what I have said, and the principles upon which our decision in this case must be founded.

By the statute of the 3rd and 4th Vict., c. 105, a judgment is made an equitable charge in favour of the creditor against all the property of the debtor mentioned in it; viz., lands, *rectories*, tithes, hereditaments, &c., of or to which the creditor was, at the entry of judgment, seised or possessed for any estate or interest whatever, either at law or in equity. *Larger words cannot be conceived*; and it was held even in this country,

where the incumbent could actually charge his benefice, that ecclesiastical rectories were not within the term "rectories." Why? Because in an earlier section of the same Act of Parliament, dealing with a wholly different matter, the word "rectory," though used apparently in the most general manner, was shown by the context to be confined to lay rectories.

The then Lord Chancellor of Ireland had held for a considerable time the opposite view: holding that the general words of the 22nd section should get their full force and meaning; but he was obliged (when the matter was reviewed in the Court of Appeal in Chancery here), yielding to the rules I have mentioned, to reverse all his previous decisions, and to hold that the general meaning of the word "rectory" was to be restricted, and that lay rectories only were within the 22nd section. That case will be found reported as *Sweeney v. Fleming*, 14 Irish Chancery Reports, p. 23.

Applying the principle of the argument here, that case might justly be quoted as establishing that an ecclesiastical rectory was not a *rectory*, a simple *reductio ad absurdum*; but it established no such thing: it established that an ecclesiastical rectory was not a rectory *within that particular Act of Parliament*. Now, again, by the statute 13 & 14 Vic., c. 29, a judgment, when registered as prescribed by the statute, is given in the most express language the same effect as if the creditor had executed a mortgage, and as if that mortgage had been duly registered in the Deeds Registry Office. It was held in the Court of Chancery in this country, and in the Court of Appeal in Chancery here, that the judgment so registered as a mortgage took priority over the previously executed deed of the creditor, affecting the same property which remained unregistered, and of which the judgment creditor had not notice, because it was said that the language of the statute *admitted no other interpretation*; but all these decisions were reversed by the House of Lords in the case of *Eyre v. M'Dowell*, and from which it is plain that a great miscarriage occurred in this country in not attending to the rule, that general words or general terms in a statute are to be controlled or restricted as well by the context of the statute itself, as by that of all those statutes that were previously passed in *pari materia*; and it was demonstrated by the most perfect logical reasoning, that upon the true construction of the statute, when taken together with the 3 & 4 Vic., c. 105, that a judgment creditor, notwithstanding the strong and apparently unambiguous words I have referred to, took by the registration of his judgment nothing but what remained after giving full effect to all the dispositions of the debtor, including even those which were unregistered. The case of *Rex v. Ingham*, 3 Ell. & Bl., p. 889, illustrates the same principles. By an Act of the 37 of the 7 & 8 Geo. IV., chap. lxxv., a local and personal but public Act, for regulation of the watermen and lighthousemen in the River Thames, between Yantlet Creek and Windsor, a penalty is imposed on any one who, not being a freeman of the Waterman's Company or an apprentice, shall act as a waterman or lighterman, or ply, or work, or navigate, or cause to be worked or navigated, any wherry, lighter, or *other craft*, from or to any place, or ship, or vessel, for hire. It was held that a steam tug was not within the term "*craft*." Mr. Justice Erle says, p. 901: "I am also of opinion that the appellant has incurred no penalty, in other words, that he has not worked or navigated any wherry, lighter, or *other craft*, within the meaning of the 37th section; what he has done is to navigate a steam tug in moving a vessel, and the question is whether that is within the words of the section. All turns upon the wide term '*craft*;' it is said

that this may include a steam tug, *and so it may*. But it is a general rule that when a word of wide signification follows others of a signification less wide, it must be interpreted as having a meaning bringing it within the same class as those others." That case no doubt was a case of a penalty sought to be imposed at the instance of a body seeking to establish an exclusive monopoly; but the principle of construction laid down by Mr. Justice Erle is one of general application. Of course it was perfectly absurd to suppose that a steam tug was not comprised within the term "CRAFT;" but that was not the question at all: the question was, was it within the meaning of the term "*craft*" as used in the section of the Act upon which the question turned? So here the question is not, whether the Rev. Mr. Stubbs, the Rev. Mr. Gray, and the Rev. Mr. Mahaffy are not ecclesiastical persons, but are they within that term as used in the 46th section of the Irish Church Act of 1869? Again, in the case of *Ingram v. Barnes*, 7 Ell. & Bl., p. 115, it was held that an illiterate labouring man attaching his mark to a contract by which he engaged to make as many bricks as required in a certain field, and who actually with his own hands assisted in the making of the bricks, was not an "ARTIFICER" within the meaning of that term as used in the Truck Act, 1 & 2 William IV., c. 37, as he was not bound personally to do any part of the work.

Now that statute is a most beneficial one—one for the protection of workmen. It enacted that in all contracts for the hiring of *any artificer* in the trades enumerated, or for the performance by any artificer of any labour in any of those trades, the wages of such artificer shall be paid in the current coin of the realm, and not otherwise; in its 3rd section, it enacted that every payment by goods or other, otherwise than by giving current coin, should be illegal, null, and void.

The interpretation clause was as follows:—

"That in the meaning and for the purposes of the Act, all workmen, labourers, or other persons in any manner engaged in the performance of any work, employment, or operation, of what nature soever, in or about the said trades shall be then deemed '*artificers*;' and that within the meaning, and for the purposes of the Act, any money or other thing had or contracted to be paid, delivered, or given as a remembrance, reward, or remuneration for any labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, should be deemed and taken as the wages of such labour." Nothing could apparently be stronger than these words; yet it was held in the Court of Queen's Bench, certainly with some expression of doubt, but afterwards unanimously in the Exch. Chamber, that although the brickmaker was not paid in money, but by goods tickets, yet that the payment was good—the brickmaker not being an ARTIFICER within the meaning of the Act—upon the ground that the whole context of the Act showed that the term "artificer" was intended only to apply to those who are actually or personally engaged or employed to do the work; in other words, bound personally to execute it, that is, to cases of *master and labourer*.

The argument used in that case was very much the same as that used here—namely, that the letter of the Act of Parliament was clear, and that it should get its full and unrestricted meaning. No doubt, as an abstract proposition, it was ridiculous to say that the brickmaker was not an artificer; but that was not the question; the question was, was he an artificer within a particular Act of Parliament, which is an entirely different matter.

The latest case in which it was sought to lay hold of general words, is

a curious one, *Charlton v. Brigs*, 4 L. R. C. P. The People's Representation Act of 1867 enacts, that every MAN with certain qualifications shall be entitled to the franchise. The 13 & 14 Vict. c. 21, section 4, Lord Brougham's Act, enacts, that in all Acts words importing the masculine gender shall be deemed and taken to include females, unless the contrary as to gender is *expressly provided*. It was vehemently contended that thus women were entitled to the franchise; but applying the general rules of construction above referred to, the Court held, entirely apart from the question of legal incapacity, having regard to the whole context of the statute and of the previous Act, in "*pari materia*," that "man," notwithstanding Lord Brougham's Act, should be read as "male persons." These cases I have mentioned out of many, not to fortify or supplement my views upon the statute itself, as to which I have no doubt, but through respect for the legal arguments urged before us, and to make more intelligible a rule of law, which, though perhaps easily understood by lawyers, does not win its way to the minds of unprofessional persons. The application of the rule in the present instance works no mischief. The Corporation of Trinity College have got compensation for a subject matter which includes the very thing upon which the Appellants, members of the Corporation and claiming as such, here base their right, and it does not impute to the Legislature the novel intention of awarding double compensation for the same thing. As well upon principle as upon authority we are of opinion that the claimants, who are Fellows of Trinity College in Holy Orders, are not ecclesiastical persons within the meaning of the 46th section, and, therefore, that this appeal should be disallowed.

Mr. Justice LAWSON, in delivering judgment, said :—

In this case I concur with his Honor the MASTER of the ROLLS, and after his very full judgment, it is scarcely necessary for me to add anything; but I desire briefly to state the view of the 46th section of the Irish Church Act, upon which the question turns.

That section provides for compensation to any *other* ecclesiastical person "beside those specially named, entitled to any right of succession to any benefice." Now, independently of the interpretation clause altogether, and supposing the word to stand unexplained by any glossary, I should hold, that the right of succession spoken of must, having regard to the context, and the whole frame of the Act, mean a right incident to the ecclesiastical status of the person in the Church. In the case named, of the Chancellor and Prebendaries of Christ Church, it means a right of succession to which, by virtue of the chancellorship or prebend, the holder was entitled. Applying the *ejusdem generis* principle, the word "other" must receive that construction. These ecclesiastical offices were abolished by the Act, and the scheme of the Act is to give compensation for the loss of the office itself, and of any right to succeed to another office incident to the office held. It never could be held to apply to *any* right of succession belonging to a person in holy orders, growing out of the exercise of a right of patronage by the owner of an advowson entitled to compensation under the 18th section of the Act. The owner of that advowson may be charged with a duty or trust to present a particular person on the next avoidance, and the person so presented must be a clerk in holy orders; but his right to be presented does not grow out of his ecclesiastical status, but out of a special relation between him and the patron of the living. Thus, if a clergyman is himself the owner of an advowson, he may present himself on the next avoidance; but that is not a right of succession under the 46th section,

but a matter to be considered in calculating the value of the advowson under the 18th section. I have always so held, and have disallowed such claims when presented under section 46. The same principle must apply where, instead of the clergyman being himself the owner of the advowson, another is owner of it with a trust or duty to present him. The Act provides that the entire capital value of the advowson is to be paid as compensation, and it would be absurd to hold, first, that the entire sum representing the value of the advowson should be paid to the owner or trustee, and besides that persons having rights as against him should be compensated out of the funds of the Commissioners, instead of out of the capital sum representing the entire value of the advowson. Now, applying that to the present case, how does the matter stand? The corporation of Trinity College, consisting of the Provost, Fellows, and Scholars, have a number of advowsons, a sum of over £120,000 has been ascertained to be the value of these advowsons, and has been paid over to the corporation, and now represents these rights. Then it appears that by a usage of the corporation certain members of it, the Fellows, were entitled in a certain order to be offered the presentation to those livings—that gives them a right, but not a right growing out of their ecclesiastical status, but incident to their office of Fellows, the being in holy orders being a necessary qualification for the enjoyment of the right. The status of Trinity College, and of its Fellows, is not affected by the provisions of the Church Act; but the College, like any other person, loses its advowsons and has been compensated for the loss, and the individual members of the corporation, who have subordinate rights against the corporation, must assert them against the sum paid to the corporation in respect of these advowsons. I am very far from saying that the Fellows have not such a right. I only decide that they have it not against the Commissioners, for that would be to make them pay for the same thing twice.

But the interpretation clause removes all doubt upon the matter. If the words ecclesiastical person in the 46th section had remained unexplained, it would have excluded from compensation under that section lay members of Cathedral corporations, who were entitled to succeed to other Cathedral preferment, and, therefore, the interpretation clause makes an ecclesiastical person include a person holding a Cathedral preferment as thereafter defined, which names a vicar-choral or choirman. We, therefore, decided that the choirmen of Christ Church, though laymen, were ecclesiastical persons within the meaning of the Act. The same interpretation clause says the words ecclesiastical person shall mean any archbishop, bishop, or person holding any benefice; thus excluding from it persons in holy orders who do not fill any of those positions.

It appears to me, therefore, to be clear that a Fellow of Trinity College in Holy Orders, as such, is not an ecclesiastical person within the 46th section of the Act.

Lord Viscount MONCK concurred in the judgments already delivered, and stated that although the appellants had not succeeded, yet, as the case was a fair one for argument, the Commissioners would allow them their costs.

(Heard by Viscount MONCK and Mr. Justice LAWSON, the 15th May, 1871.)

In re the STIPENDIARIES of CHRIST CHURCH CATHEDRAL, Appellants.

Mr. *Pilkington*, q.c. (with whom were Dr. *Elrington*, q.c. and Mr. *Hamilton*), instructed by Messrs. *Hamilton* and *Craig*, appeared to sustain an appeal from a conditional order made by Mr. Justice LAWSON disallowing the claims of the appellants, and said that they sought compensation under the 46th section of the Irish Church Act, in respect to their right of succession to the benefits of the vicar-choralships of the Cathedral of Christ Church, Dublin. The certificate of the Dean and Chapter of the Cathedral, as well as the books, would show that so far back as 1691 there had been a right of succession to the stipendiaries or choirmen, which, continued up to the passing of the Act.

Mr. Justice LAWSON.—The certificate states, “It has been the general usage since 1617 for choirmen to succeed to the vicar choralships of the Cathedral,” but I think to entitle the claimants to compensation it should have been an invariable usage.

Mr. *Pilkington* said he thought it had been the invariable usage. The only question to be argued was whether the claimants came within the 46th section. It enacted—“The Commissioners shall ascertain whether the Chancellor and Prebendaries of Christ Church, Dublin, or any other ecclesiastical person are or are not entitled to any right of succession in the benefices of Kilcullen, Kildare, St. Mary, St. Thomas, and St. George, Dublin, or any other benefice or benefices, and if entitled, shall award to them respectively such sum in compensation for the same as shall seem to them just.” He (counsel) thought it might appear at first sight that the section did not apply to the claimants, but he submitted that the term “ecclesiastical person” would include stipendiaries.

Mr. Justice LAWSON.—You argue that “ecclesiastical person” may mean a layman.

Mr. *Pilkington* said that was so, because he considered he was entitled to say that “cathedral preferment” might include a lay person, and that it was the policy of the Act to give compensation to every one who had a right to it. In the glossary there was an explanation of the term as follows:—“Cathedral preferment shall mean and include every deanery, archdeaconry, prebend, canonry, chaplaincy, office of minor canon, chantry, office of priest vicar, vicar-choral, or choirman, having any prebend or endowment belonging thereto, or belonging to any body corporate, consisting of persons holding any such office, and also every precentorship, treasurer'ship, subdeanery, chancellorship of the church, and other dignity and office in any cathedral or collegiate church.”

Mr. Justice LAWSON said there could not be a right of succession in any individual choirman, because it appeared that there was a usage to elect the vicar choral from the body of choirmen.

Mr. *Pilkington* argued that the section had been passed expressly for the purpose of giving compensation for the succession to the living, and that if it did not include the claimants it would be a dead letter.

Mr. *Law*, q.c. (with whom was Mr. *Barry*), watched the proceedings on the part of the Crown and opposed the claim, and argued that the claimants did not come within the 46th section at all. They were liable to be dismissed at any time, and did not hold anything which could be regarded as an office as known to the law. The office had no prebend or endowment, and he contended that a benefice, in the common-sense meaning of the term, meant ecclesiastical or clerical preferment.

Dr. *Elrington* observed that their lordships were not asked to put any

violent construction on the section when they were asked to believe that "ecclesiastical person" might mean a layman, for in the Shipping Act "seaman" included women (laughter). He further mentioned that if the word "benefice" included the office of the claimants, or of vicar-choralship they would be entitled to compensation.

Judgment having been reserved was delivered on the 16th May, 1871.

Viscount MONCK said—In this case the appellants are the choirmen of Christ Church Cathedral, who claim compensation for the loss of their right of succession to the vicars of the same cathedral, under the 46th section of the Irish Church Act.

The "vicars and choirmen" of Christ Church—six vicars and six choirmen—appear to have been constituted a corporation, and endowed by a charter of Charles II.

A usage extending over a long period of time has been proved of filling up vacancies amongst the vicars by election from amongst the choirmen.

It is plain that the existing choirmen have, by the passing of the Irish Church Act, lost their right of succession, or, at all events, their chance of being elected to succeed to the vicarages.

It has been well observed in the argument of this case, that this 46th clause is an isolated clause in the Act, and embodies a principle which is generally in other parts of the Act rejected—that, namely, of compensation for an interest not matter of present enjoyment.

The wording of the clause is remarkable; it begins as if it meant to deal only with the officials of Christ Church—"The Commissioners shall ascertain whether the chancellor and prebendaries of Christ Church, Dublin," and then proceeds in terms of general application, "or any other ecclesiastical persons," "are or are not entitled to any right of succession to the benefices of Kilcullen, &c., or any other benefice or benefices," and if entitled to compensate them for the same.

It is on the construction to be given to these words of general application that the question which we have to decide arises.

I have already said that a custom of selecting the successor to a vacant vicarage from among the choirmen has been shown, sufficient in my opinion to establish the "right of succession" in that body.

The appellants ask us further to give such a meaning to the words, "other ecclesiastical persons," in the 46th section, as will include choirmen, and such a meaning to the words, "other benefice or benefices," as will include the offices held by the vicars.

Now, we have had a good deal of learning expended in the argument of this case, on the definition of these terms: but it appears to me unnecessary to go beyond the glossary clause of the Irish Church Act in order to arrive at the intention of the framers of this Act in regard to this matter.

It seems to me that in respect to the two terms of which, for the purpose of construing this 46th section, we require a definition, the terms namely, "ecclesiastical person" and "benefice," it was the intention of the legislature to give to them the widest and most extensive signification.

Ecclesiastical person is defined to be a person holding a benefice or cathedral preferment as hereinafter defined; "cathedral preferment" includes in its definition the very word "choirmen," by which the appellants are called in their original charter of incorporation, and which, I think, I heard yesterday was peculiar to Christ Church Cathedral.

I think, therefore, it is indisputable that these choirmen are "ecclesiastical persons," within the meaning of the Act.

Is then the office, to which they have lost, by the passing of this Act,

their right of succession, one that comes within the designation of "benefice"?

I observe in the original charter that the corporation is called that of the "vicars and choirmen of Christ Church." The official is, therefore, a vicar, and I take it, whatever may be the technical or popular meaning of the word, his office must be a vicarage. Well, if this be so, we have the actual word included in the definition given in the glossary of the term "benefice."

I am of opinion, therefore, that these choirmen are ecclesiastical persons, that they had a right of succession to the vicars, and that the vicarages are "benefices" within the meaning of the Act. The appeal must be therefore allowed and compensation awarded to them.

Mr. Justice LAWSON, in expressing his concurrence in the decision, remarked that it might seem strange to call these choirmen ecclesiastical persons; but from the glossary it was evident they were so. It was also clear that the vicar-choralships to which they had established their right to succeed to, must be regarded as benefices within the meaning of the Act. The amount of compensation to be given would be a matter for the actuaries to decide.

An application for costs was allowed.

POSITION OF DIOCESAN ARCHITECTS (heard by Viscount MONCK and Mr. Justice LAWSON, the 22nd December, 1870).

In re J. RAWSON CARROLL, Esq.

Mr. *Pilkington*, q.c., appeared on behalf of the claimant, who is architect of the united diocese of Kilmore, Elphin and Ardagh. He claimed an annuity under the 16th section of the Act, having been appointed under deed from the Bishop of the diocese in 1868, and having been paid according to a scale fixed by the Bishop.

The Commissioners held that this claim did not come within the 16th section. The claimant discharged his duties in the ordinary way, and was paid in the same manner as any other architect would be paid. The claim was, therefore, disallowed.

POSITION OF DIOCESAN REGISTRARS (heard by Viscount MONCK and Mr. Justice LAWSON, the 22nd December, 1870).

In re JAMES E. NESBITT, Registrar of Derry and Raphoe, and Messrs. THOMAS KOUGH and THOMAS KOUGH, junior, joint Registrars of Ossory, Ferns, and Leighlin.

Mr. *Pilkington*, q.c., and Dr. *Todd*, q.c., appeared for appellants.

In this case Mr. Nesbitt, who is joint Registrar of the Diocese of Derry and Raphoe, claimed right of survivorship to emoluments of Registrar of Raphoe, under 27 & 28 Vic., c. 54. On the 30th November Mr. Justice LAWSON made an order allowing a claim for £421 10s., being the average of fees received for three years as Registrar of Derry, and disallowed the claim to right of succession; but since that order was made Mr. Fenwick who had acted conjointly with claimant, had died.

Thomas Kough, esq., and Thomas Kough, esq., junior, also claimed right of survivorship as joint Registrars of the Diocese of Ossory, Ferns, and Leighlin, inasmuch as they held office by patent.

Judgment having been reserved, was delivered on 3rd February, 1871, as follows:—

Mr. Justice LAWSON, in delivering judgment, said—In this case an important question has been argued before us, as to the rights of registrars under the 45th section of the Irish Church Act. That section, in substance, provides that we are to ascertain the fees or other emoluments received by each registrar or joint-registrar of any diocese, or united diocese, on an average for the three years ending the 1st of January, 1869, and to pay to such registrar during his life an annuity equal to the average amount of his fees and other emoluments ascertained as aforesaid. The facts upon which the present question arises are these: Mr. Nesbitt was registrar of Derry, doing the duty of that office in person, and receiving its fees and emoluments at the passing of the Act. Mr. Fenwick was registrar of Raphoe, doing the duty by a deputy, Mr. Wilson. Under these circumstances, three claims were lodged in the office—Mr. Nesbitt claimed an annuity of £421 10s., being the average of the fees and emoluments received by him for the three years ending the 1st of January, 1869. He also claimed to be entitled to a life annuity of £86 14s. 6d. after the death of Mr. Fenwick, in the event of his surviving him. Mr. Fenwick made a similar claim. He claimed a present annuity of £86 14s. 6d., and a deferred annuity of £421 10s., from the death of Mr. Nesbitt in the event of his surviving him. The third claim was that of Mr. Wilson, the deputy of Mr. Fenwick, who had held that office for forty years, receiving half the fees, and he was clearly entitled to compensation under the subsequent part of the clause, such compensation to be deducted from the amount payable to his principal. Those claims having come before me I ruled that the claimants were entitled to the present annuities, but were not entitled to the deferred annuities. Mr. Fenwick died in the month of November, and, therefore, Mr. Nesbitt sent in a further claim, in which he says—"I submit that by the Ecclesiastical Courts and Registries Act the surviving registrar has to perform all the duties of the office, and is entitled to receive all the fees; also that by the 18th section of this Act a deputy registrar cannot execute the duties of a registrar after the decease of his principal. Under the provisions of this statute I am, therefore, entitled to discharge duties in person for both dioceses, and to receive all the fees, so that Mr. Wilson's powers, as deputy registrar to Mr. Fenwick, cease, as he was his principal, and I do not require the services of a deputy registrar, even if I had the power to appoint him;" so that in effect Mr. Nesbitt's claim is to have the annuity to which Mr. Fenwick was declared to be entitled, in addition to his own, discharged of all right of Mr. Wilson, the deputy, to compensation, and, of course, if his claim be well founded in point of law he must succeed, no matter how unreasonable it may seem. Well, then, in the first instance, it is perfectly clear that this point cannot be affected by the accident of Mr. Fenwick's death. The registrars had a right to have their annuities ascertained upon the passing of the Act. Their status must be ascertained as at that date, and the question comes back to that raised by the first claim, was Mr. Nesbitt entitled to one deferred annuity from the death of Mr. Fenwick? In order to determine that question we must consider the 45th section of the Irish Church Act, in connexion with the Ecclesiastical Courts and Registries Act (27 & 28 Vic. c. 54). The object of the last Act was to consolidate and unite these diocesan courts and registries.

It accordingly enacts that the Diocesan court and registry of Raphoe shall be united to that of Derry, and that the registrar of the diocese of Raphoe and the registrar of the diocese of Derry shall be the joint regis-

trars of the united dioceses of Derry and Raphoe. The 15th section provides that each of the joint registrars of a united registry shall continue to discharge his duties as registrar in the diocese of which he is registrar at the time of the passing of this Act, and to receive, subject to the rules and orders, the fees and official emoluments arising therefrom. The 16th section provides that upon the death or resignation of one or more of such joint registrars, the surviving registrar shall perform all the duties, and receive the fees and official emoluments belonging to the office of registrar or joint registrar of the united diocese. The result of this legislation was that during the three years mentioned in the Irish Church Act, the duties of each office were discharged separately and independently by Mr. Nesbitt and Mr. Fenwick, and the fees of each office were received by the officer who did the duty, the other joint registrar having no claim upon them. They were joint registrars in the sense that the survivor would be entitled to succeed to the office, doing its duties and receiving its emoluments. The Irish Church Act, then, abolishes all those offices from the 1st January, 1871, for by the 21st sec. the jurisdiction of these courts is abolished, and the Act 27 & 28 Vic., c. 54, is from this day repealed. The 45th sec. then gives compensation for the abolition of the office in the form of an annuity, calculated upon the fees received for the three years ending 1st January, 1869, and to cover the time between the passing of the Act and the 1st of January, 1871, it directs the Commissioners to pay to the registrars any fees which they might be actually deprived of during the interval by the operation of the Act. There is nothing in the Act about a deferred or contingent annuity. No right of succession is recognised. A present annuity only can be given, and the language of the Act seems very plainly to show how that annuity is to be calculated. We are to ascertain the fees received by the officer, and pay an annuity equal to the average amount of his fees and other emoluments ascertained as aforesaid. We now turn to the 15th section of the 27 & 28 Vic., c. 54, and we find that the fees and emoluments which he was entitled to receive were the fees and emoluments arising from the registrarship of the diocese of Derry. How can we spell out from this section an intention that each registrar should have a right not only to the fees of his own office, but that they should mutually have a right to the fees of the office held by the other. The Act abolishes the offices, and therefore destroys the right of succession, except during the interval between the passing of the Act and the 1st January, 1871, and the provision for securing the officer from loss during that interval, has a very important bearing upon the case. The right to succeed to the emoluments of the other office, given by the 16th section of the 27 & 28 Vic., c. 54, is given as a consideration for the performance of its duties; but as the duties cease after the 1st of January, 1871, how can there be any right of succession? It falls with the office, and the Irish Church Act gives no compensation for the abolition of that right of succession in this case, although under the 46th section other rights of succession are expressly directed to be made the subject of compensation. If all these numerous rights of succession in registrars and vicars-general were to be compensated for, the Act should and would have contained an express provision to that effect. There is no such provision, and we are not at liberty to imply it. It was strongly argued for Mr. Nesbitt that it could not have been the intention of the Legislature to do so unjust a thing as to deprive him of his vested right without compensation. Such an argument cannot weigh with us, who have only to expound the meaning of the Act; but in this case it is of very little weight indeed. Those who were familiar with the mode in which the Legislature dealt with persons whose offices were abolished,

must be aware how very rarely the holders of such offices receive anything approaching to the full amount of the actual receipts of the office from the duties of which they were relieved. Here the Legislature had relieved the registrars from their duties, and had given them an annuity equal to their actual receipts at the time of the passing of the Act, unclogged by any obligation to continuous duty, as in the case of rectors and curates, and may be supposed to have considered that quite sufficient, without providing compensation for prospective increase in the value of the office. Upon that we are not called upon to offer any opinion. It is enough to say that we think that, according to the true construction of this Act, the only compensation we can give is a present annuity calculated upon the actual receipts of the office held at the passing of the Act, and in respect of which the claim is made.

Lord Monck concurred. He said that until he had looked carefully into the case he was inclined to take a view different to that of Mr. Justice LAWSON. The difficulty arose as to the confusion of terms in the treatment of the case, as if each of these gentlemen had a joint tenancy in the office. He thought the clause read by Mr. Justice LAWSON proved that such was not the case. They had a right of succession to perform certain duties, in respect of which they were to receive certain fees. By the Act, however, these duties have been abolished, and there could not be a right of succession to anything that was abolished. They could not perform the duties, and without performing them they could not receive the fees; hence, the terms "joint tenancy" and "right of succession" were rather misapplied. That portion of the case, then, being disposed of, it seemed easy to get over the difficulty of applying the clause of the Irish Church Act.

Mr. Pilkington and Dr. Todd applied for costs.

The Court thought the claim to have the whole of the annuity discharged of any claim of Mr. Wilson, the deputy, was most unreasonable, and refused the costs.

In re the Messrs. KOUGH.

Mr. Justice LAWSON delivered judgment in this appeal. He said the case of the Messrs. Kough was quite different from that of Mr. Nesbitt. They held their office of Registrar of Ferns and Leighlin by patent, granting it to them and the survivor of them. They subsequently succeeded to the office in Ossory diocese, and at the passing of the Irish Church Act they were jointly in receipt of the fees and emoluments of the registrarship in each of these dioceses. Their annuity was, therefore, to be calculated upon the average of their actual receipts from all three. Thus the annuity payable to the holder of the office was ascertained. The grant of the annuity must follow the tenure of the office, and must be payable to them and the survivor of them. The appellants should be allowed their costs.

RIGHT OF INCUMBENTS TO RECOVER ARREARS OF TITHE RENT-CHARGE AFTER 1ST JANUARY, 1871 (heard by the Hon. C. J. TRENCH, Q.C., Chairman of Dublin County Quarter Sessions, at Kilmainham Court-house, the 24th June, 1871).

TOMLINSON v. BARNWELL.

The plaintiff in this case, the Rev. Thomas Tomlinson, of Montpelier-hill, Vicar of St. James's Parish, Dublin, claimed under the 55th section of "The Irish Church Act, 1869," from the Defendant, who was a

grocer, residing at Richmond, a sum of £2 5s., being four years' tithe rent-charge at 11s. 3d. per annum (which appeared by the applotment book to be charged upon, and payable out of, the lands known as The Orchard, at Kilmainham, in the Parish of St. James, Diocese of Dublin), up to the 1st of November, 1870, that being the last gale day which Mr. Tomlinson was entitled to collect, as the May gale of 1871 was vested in the Commissioners of Church Temporalities in Ireland by that Act. It also appeared that the Commissioners had refused to allow the Plaintiff this amount of rent-charge in estimating his annuity under the 14th section of "The Irish Church Act," unless he succeeded in recovering the same.

Mr. *William Bloomfield* appeared for the Plaintiff; Mr. *Fitzgerald* for the Defendant.

The Defendant denied his liability on the ground that he had never paid a shilling tithe rent-charge, though in possession for fifteen years, and holding under a fee-farm grant. To this it was replied that the former vicar, being an indulgent and easy man, never claimed the sum, though legally entitled to it, and that the Rev. Mr. Tomlinson, though vicar of the parish for four years, had not insisted on payment, for similar reasons, nor would he now have done so were it not that, in conformity with the Irish Church Act, his future annuity was to a certain extent to be regulated by the returns supplied to the Commissioners as to the income to which he was hitherto entitled. Under these circumstances he brought the present action for the sum due up to the gale day preceding 1st January, 1871, that being the date that "The Irish Church Act" came into operation.

The Chairman granted a decree for the amount claimed.

DECISION BY PRIVY COUNCIL AS TO GENERAL RULES FOR THE PAYMENT OF ANNUITANTS * (heard by the Judicial Committee of the Privy Council in the Council Chamber, Dublin Castle, the 20th June, 1871).

Curates v. Representative Church Body.

The following were the members of the Privy Council who composed the Judicial Committee, viz. :—

Chairman, Right Hon. Sir FREDERICK SHAW, bart.; Right Hon. Mr. JUSTICE FITZGERALD, Right Hon. JUDGE KEATINGE, Right Hon. the MASTER of the ROLLS, Right Hon. the LORD BISHOP of MEATH, Right Hon. C. R. BARRY (Attorney-General).

Mr. *May*, q.c., and Mr. *Edward Gibson*, instructed by Mr. *Aquila M'Mahon*, solicitor, appeared on behalf of the curates, and Mr. *Pilking-ton*, q.c., instructed by Mr. *John Maunsell*, solicitor, appeared for the Representative Church Body.

The Bishop of MEATH said that, being a member of the Representative Church Body, he would take no part in the proceedings.

A discussion arose as to the course to be pursued by the Privy Council, a difficulty having arisen, in consequence of only five members of the Council being present, the 8th section of the Irish Church Act, which gave them jurisdiction, requiring that six members should be present, and should sign any order to be made.

Mr. *May*, q.c., said it was most desirable to have the question finally settled before the 1st of July, as on that day the first gale of annuities would become payable.

* See Rules, *post*, page 165.

The Committee then decided upon hearing the matter argued by counsel, and afterwards communicating with the Lord Lieutenant. His Excellency subsequently sat for a few minutes with the Committee, and thus removed any difficulty that might exist on that point.

Mr. *May*, *q.c.*, then proceeded to state the case of the curates, and said that the question arose under the 8th section of the Irish Church Act, which gave power to the Commissioners of Church Temporalities in Ireland to make general rules. That section declared that the rules so made should be laid before the Privy Council, and that it should be lawful for the Council, by an order signed by six of them, to confirm or disallow, or alter or amend, any such rules, or remit them back to the Commissioners for further consideration. He represented the permanent curates, who were entitled to annuities under the 15th section of the Act. The curates were divided into two classes, *viz.*, those who were called permanent curates, and those of a different description, who were supposed to be temporary. The word "permanent" did not mean that the curate was permanently attached or fixed to any incumbency, but that at the time of the passing of the Act he had been duly nominated by an incumbent, licensed by a bishop, and thus had the status of a curate. In the interval between the 1st of January, 1869, and the 1st of January, 1871, a great many incumbents who previously had no curates, appointed curates; and the Commissioners regarding these as permanent curates awarded them annuities under the 15th section of the Act. What he submitted on behalf of permanent curates was, that when once they had been awarded their life annuities by the Commissioners, they were entitled to receive them so long as they discharged the particular duties of the curacies under the incumbents with whom they had contracted engagements at time of appointment; but that, upon the death or removal of those incumbents, it thereupon became impossible for them any longer to discharge those particular duties. In that case they should still be entitled to their annuities, because it could not be then said that their not discharging their duties arose from "wilful default" on their part, which was a circumstance to which the Act annexed forfeiture of the annuity. If this were not so, an annuitant might be obliged to perform duties under an incoming incumbent with whom he could not agree, or of whose doctrines he disapproved, without being allowed anything beyond his annuity. His case would be worse than that of the temporary curate, who was given a gratuity ranging from £200 to £600, and who in addition might make a fresh engagement for the performance of spiritual duties at a suitable income. Therefore to hold that, after the death or removal of his incumbent, the curate was to be liable to the performance of duties of some kind or other which the Representative Church Body were to impose on him in order to entitle him to his annuity would be to make a distinction entirely to his prejudice as compared with the temporary curate.

The rule which it was sought to have modified was as follows:—"In order to entitle an annuitant under the 15th section to the first and each succeeding half-yearly gale of said annuity, he shall be bound to furnish to the Commissioners a certificate signed on behalf of the Representative Church Body to the effect following:—'That he continues to discharge the duties of the curacy in respect of which the annuity was granted, or other spiritual duties in Ireland, which, with his own consent, and the consent of the Representative Church Body, have been substituted for them; or, if not discharging such duties, that he has been disabled from so doing by age, sickness, or permanent infirmity, or any cause other than his own wilful default.'" What he asked the Council to do was to

insert into that rule some language to the effect that the duties of the curacy in respect of which the annuity was granted terminated by the avoidance of the benefice in respect of which the annuitant was curate at the time of his appointment. The curates thought it would be sufficient to be obliged to discharge duties during the lifetime of their original incumbents; and then they could enter into fresh engagements, retaining, at the same time, their annuities, which had been, he submitted, granted to them by Parliament, as much by way of compensation for the deprivation of vested interests and the disappointment of future expectations as for anything else. They objected to being placed in such a position as that they would be the servants of the Representative Church Body, and liable to do duty for them gratis.

Mr. *Pilkington*, Q.C., said he appeared for the Representative Church Body, and that they were satisfied with the alterations which had been made in the rules since January last by the law officers of the Crown. As he understood the argument of his learned friend, Mr. *May*, it was that permanent curates, in case of the death of their incumbents, should be held to be entitled to receive their annuities without doing any duty from thenceforward. He submitted that the fair construction of the Act was that the Legislature intended that duty should be performed for the annuity, unless in the cases specially excepted in the rule, namely—where the party was disabled by age, sickness, permanent infirmity, or any cause other than his own wilful default. It was now sought by counsel on the other side to interpolate in the statute something that would permit the substitution of duties during the lifetime of the original incumbent, but only during his lifetime, and, of course, with the consent of the curate and the Representative Church Body. That, he contended, was not the intention of the Legislature. He thought that the annuity was limited to the curate only so long as he discharged either his original or his substituted duties, and that the substitution of duties was not to be confined to the lifetime of the incumbent. The Act of Parliament placed both the Representative Church Body and the curate upon an equality. The Representative Church Body had not power to appoint a curate to a particular parish without his consent, or to say that he must remain in a parish the rector of which had died. The Act placed them in such a position as that each party had power to enter into a new engagement. It was the interest of both, and especially of the Representative Church Body, that they should agree, because otherwise the value of the annuity would be lost. His construction of the Act was, that if the curate were to say, "I will do no duty," he would cease to receive the annuity. If the Representative Church Body were not to permit him to do duty, the curate might say that he was precluded from doing duty by no wilful default of his own.

Mr. *Gibson* replied, and strongly urged that, the Act of Parliament being a compensating one, the curates should not have a condition not in the spirit of its policy annexed, as to the payments of their annuities. Counsel also urged that the Privy Council should determine the question here raised, so as not to leave men of limited incomes, like the great body of the curates, to such an expensive mode of solving it as an application to the Queen's Bench for a *mandamus* calling on the Representative Church Body to show cause why they did not grant a certificate.

The *Attorney-General* stated that the law officers of the Crown settled the rules in their present form in February last, but the action of the Privy Council was suspended in deference to the wishes of parties who were largely interested in the matter.

At the request of Judge KEATINGE,—

Mr. *May*, q.c., submitted a written amendment to the effect that the last clause of the rule should be modified as follows :—

“Or if not discharging such duties that he has been disabled or prevented from doing so by age, sickness, permanent infirmity, avoidance of the benefice, or other cause specified, without his own wilful default.”

The members of the Committee having consulted together,—

Sir FREDERICK SHAW, in delivering the decision of the committee, said that it would be their duty to report to the Council the amendments they intended to make in the rules, but, in the meantime, he would state that the Committee could not adopt the view argued for by the counsel on behalf of the curates, that the avoidance of the incumbency by death, or resignation, or exchange, operated as contended for, to release the curate from the obligation of further duty. But they proposed to make such an alteration in the rules as would ensure to the curates that the Representative Church Body should either give a certificate or specify their reasons for withholding it. The matter would go back to the Commissioners, and would be reported to the Privy Council in due form.

Mr. *Pilkington*, q.c., said he was sure the Representative Church Body would not have the slightest objection to specifying grounds for withholding their certificate in any case.

DISABLED INCUMBENTS EXEMPT FROM DUTY UNDER CERTAIN CIRCUMSTANCES.

In re the Reverend R. H. GRAVES, D.D., Appellant, and the REPRESENTATIVE CHURCH BODY, Respondents (heard by Viscount MONCK, Mr. Justice LAWSON, and THE MASTER OF THE ROLLS, on the 9th of January, 1875).

The appellant in this case was incumbent of the benefice of Brigown, in the diocese of Cloyne, to which he was appointed in 1832, and therefore exempt from the provisions of the Church Temporalities Act of 1833 (which established the Ecclesiastical Commissioners, and authorized the levy of ecclesiastical tax on the net income of the clergy). The appellant held an annuity under the 14th Section of “The Irish Church Act, 1869,” and the question substantially raised by him was whether the respondents were justified in having refused to certify that appellant was entitled to the payment of his annuity.

Mr. *W. D. Andrews*, q.c., appeared for the appellant, and Mr. *H. M. Pilkington*, q.c., for the respondents.

Mr. *Andrews*, in his opening statement, said :—The mode in which this case comes before the Court is in the shape of an application for an order to pay a half-year’s salary to Rev. Dr. Graves, notwithstanding the course taken by the Representative Church Body. The reason of the Representative Church Body for withholding the certificate that Dr. Graves is entitled to his half-year’s annuity is, “The Representative Church Body cannot certify that the Rev. R. H. Graves, D.D., has performed his duties pursuant to the 14th sec. of the Irish Church Act, 1869, and the general rules of the Commissioners of Church Temporalities in Ireland, for the half-year ending 31st December, 1874, inasmuch as although Dr. Graves is not able, in consequence of age and infirmity, personally to discharge all the duties of incumbent of Brigown; yet the said Dr. Graves having an annuity as such incumbent of £687 6s. 8d., has not discharged since

14th March, 1874, and does not discharge the duty of providing for the performance of Divine Service by the agency of a curate, but, on the contrary, refuses so to do, whereas the duty of employing a curate under such circumstances was the law of the Church of Ireland before the passing of the Irish Church Act, and is now binding on him by the 20th section." Dr. Graves was appointed to his living in 1832. The Act imposing taxes on the clergy, already cited, did not receive the royal assent till 1833, consequently Dr. Graves could not be one of those asked to pay tax; he is still holding that incumbency to which he was appointed in 1832 and no "deduction for curate's salary" was ever made.

Judge LAWSON—The only thing that could be done was, that the bishop could make him appoint a curate, under the old law, I mean.

Mr. *Andrews*—The order by which Dr. Graves' annuity is declared is dated 1st September, 1870, and it became, and is now, an absolute order and in the schedule annexed thereto we find no deduction made for salary of curate.

MASTER OF THE ROLLS—You contend that Dr. Graves got his annuity free?

Mr. *Andrews*—Yes; Dr. Graves was entitled to have the whole of his declared annuity go into his own pocket; for at the time of the passing of the Irish Church Act there was a curate in Brigown—that gentleman was the Rev. Courtenay Moore. His position was determined under the 15th section to be that of a permanent curate, and he was awarded as such an annuity of £140, which was in no shape deducted from Dr. Graves' annuity. Mr. Moore is still in receipt of his £140 a year. The Representative Body thought fit to let Mr. Moore go to another parish, and Dr. Graves could not prevent his so doing; for your Lordships know that Dr. Graves had no veto on Mr. Moore, for he would only have it if Mr. Moore's annuity were deducted from his (Dr. Graves') annuity. It all depended on the Representative Body. Dr. Graves being powerless to prevent the change, though opposed to it, was by such change left without a curate.

Viscount MONCK—When did the change take place?

Mr. *Pilkington*—In 1871.

MASTER OF THE ROLLS—Was Mr. Moore in Brigown parish at the passing of the Act?

Mr. *Andrews*—Yes.

MASTER OF THE ROLLS—And they now want you to pay for a curate?

Judge LAWSON—Mr. Moore being declared a permanent curate shows that the parish wanted a curate.

MASTER OF THE ROLLS—Dr. Graves would have Mr. Moore yet if the Representative Body did not consent?

Mr. *Andrews*—He would.

MASTER OF THE ROLLS—The question then is, let Dr. Graves get his annuity, and let the Representative Body go against him by the 20th section. The 14th section gives it to him point blank; I do not see what doubt can be about it. Of course I take it for granted that Dr. Graves is disabled.

Mr. *Pilkington*—We admit that.

MASTER OF THE ROLLS—It is not in the power of the Representative Body to do anything to him *prima facie*.

Mr. *Andrews*—The Representative Body in giving their reason for withholding the certificate, rely upon the 20th section of the Act. They, I think, fall into the mistake of supposing that the duties mentioned in the 14th section are not such duties as a man may be unable to perform owing to disability, but that they go out into the whole scope of

ecclesiastical law ; and having taken this view of the case, the Representative Body, without a trial, set about punishing Dr. Graves by having his whole salary stopped. What does the 20th section say? It provides that the ecclesiastical law of Ireland, at the time of the passing of the Act, shall continue to affect the members of the Church by way of contract, and therefore they are just in the position of Nonconformists, viz., certain rules are agreed to, which each member is bound by, and if any question arises as to the enforcement of them, such question is to be settled by the temporal courts, not by the Representative Body or this tribunal. Dr. Graves further maintains, that even *before* the passing of the Irish Church Act, 1869, he was not bound to pay a curate. Dr. Graves employed a curate (Mr. Best) from the time of the removal of Mr. Moore till the 14th March last (1874) ; but I prefer saying nothing with respect to this until I hear what my learned friend says on the subject.

Mr. Pilkington—What the Representative Body did was, they put upon the paper referred to, the fact that Dr. Graves was disabled, but that they could not, nevertheless, say that Dr. Graves discharged the duties incumbent on him of appointing and paying a curate to officiate in the parish. Dr. Graves, from 1853, employed two curates. Mr. Moore was one of the two. From 1871, also, to the 14th March, 1874, the duties were discharged by Mr. Best. On that day (14th March) Dr. Graves, closed the church, and it has been closed ever since ; and there was no possibility of having it opened, for Dr. Graves objected to the payment of a curate, as the parish would not join him, as he wanted, in his attempts at getting the prayer-book revised.

(Mr. Pilkington here read two letters from Dr. Graves to the Bishop of Cork, in which Dr. Graves stated that upon conscientious grounds he could not pay a curate, as steps were not taken to purge the Prayer Book from certain errors.)

MASTER OF THE ROLLS—Of course, I can understand.

Mr. Pilkington—The question is, is Dr. Graves entitled to say, "I receive my annuity and close my church"?

MASTER OF THE ROLLS—Oh, not closing his church ; but if he is disabled, you may, if you like, provide a curate for it.

Mr. Pilkington—He is unable to officiate ; but I think that the appointment of a curate, and the paying of one, which duty he is able to discharge, is as much imposed upon him as any other duty. The duty of employing a curate was undoubted at the passing of the Irish Church Act, and it was made binding by the 20th section.

Viscount MONCK—Could not the bishop, under the 20th section, put the temporal courts against him?

Mr. Pilkington—Well, I think that is an extremely difficult question ; this would be the first case.

MASTER OF THE ROLLS—There may be difficulty, but there is no doubt the temporal courts are the thing.

Judge LAWSON—All you could do is to stop the whole of his annuity.

Mr. Pilkington argued that the appointment and paying of a curate was a "spiritual" duty which Dr. Graves, though not disabled from performing, failed to do.

MASTER OF THE ROLLS—Supposing Dr. Graves' infirmity was of such a character that he could not write, or that he had no consciousness to act, what would you say then?

Mr. Pilkington—The case does not arise.

MASTER OF THE ROLLS—Oh, well, this at once tests the Act.

Mr. Pilkington—I think the bishop could appoint a curate then.

MASTER OF THE ROLLS—The second clause of section 14 says, “Any other spiritual duty.” Do you call the appointing of a curate a spiritual duty?

Mr. Pilkington—Yes. I refer you to 5 Geo. IV. c. 91, s. 49, and we find, “When an incumbent is disabled from mental or bodily infirmity, it is the duty of the bishop to require him to appoint a curate.”

MASTER OF THE ROLLS—The 14th section of the Irish Church Act refers to the incumbent's own person, until he is disabled.

Mr. Pilkington went on to say: The bishop in this case has gone as far as he can go, and your Lordships will place the Church at large in a very peculiar position if you decide in favour of Dr. Graves.

Viscount MONCK—Is it not quite plain that the bishop can in return go to the temporal courts. If everything a bishop calls upon an incumbent to do must be obeyed, what is the use of the 20th section?

Mr. Pilkington—I hope your Lordships will not give such a decision as will prevent us taking further steps.

The **MASTER OF THE ROLLS**, in delivering the judgment of the Court, said:—The 14th section enacts as follows:—“The Commissioners shall . . . ascertain and declare by order the amount of yearly income of which the holder of any archbishopric, bishopric, benefice, &c. . . connected with the said church shall be deprived . . . and shall pay every year to every such holder so long as he lives and continues to discharge such duties in respect of his said archbishopric, bishopric, benefice, &c. . . or any other spiritual duties in Ireland which may be substituted for them . . . or if not discharging such duties, shall be disabled from so doing by age, sickness, or permanent infirmity, or by any cause other than his own wilful default, an annuity equal to the amount of yearly income so ascertained as aforesaid, &c.” Now, these words are to receive the ordinary construction. And these words are mandatory, “They shall pay.” There are three events in which payment shall be made: First, if he discharge the duties which he was discharging at the passing of the Act. Second, if he discharge any other spiritual duties in Ireland with his own consent and that of the Church Body. The word “spiritual” occurring is very important, and it is scarcely possible to think that the duty of appointing a curate would be a spiritual duty. Third, “Or if not discharging such duties, shall be disabled,” &c., Now, I cannot conceive what the use of adding these words is, if Mr. Pilkington is right. I take this section to mean, that if a man cannot discharge his duties in his own person by reason of age, sickness, or permanent infirmity, he is to get his annuity.

(The Master of the Rolls here referred to the general rules of the Commissioners transferring with approval of Privy Council to the Representative Body, as being the most fit, the power of saying whether an annuitant had (1) discharged the duties he was discharging at the passing of the Act, or (2) had discharged duties substituted for them, or (3) was disabled, &c.) And he continued:

The Commissioners thought that it would be a very proper thing if they could get evidence from so fit a Body as the Representative Church Body, that an annuitant was entitled to his annuity under one or other of the three heads referred to. But it occurred to several members of the Privy Council that it was very questionable whether an annuitant could be at all embarrassed by any certificate, the words of the 14th section being absolutely mandatory. We think, therefore, that the certificate entitling him to his annuity should be granted to Dr. Graves; but this decision leaves untouched the right of the Representative Church Body to proceed against him in the temporal courts. The 20th section

says, "That the present ecclesiastical law of Ireland and the present Articles . . . discipline, &c., shall be deemed to be binding on the members for the time being thereof in the same manner as if such members had mutually contracted and agreed to abide by and observe the same, &c." I do not suppose Dr. Graves would refuse to pay a curate but for his crotchet about Revision. It may be that he will take very little by our decision. We do not give any opinion of the 20th section. If Dr. Graves was bound by the ecclesiastical law to pay a curate, it is strange to me if he can't be compelled in the temporal courts to pay a curate. We think that under the 14th section the appointment of a curate is not a spiritual duty, and that Dr. Graves is entitled to payment of his annuity.

Viscount MONCK and Mr. Justice LAWSON both concurred in this judgment.

PART IV.

GENERAL RULES, INSTRUCTIONS,
AND FORMS

UNDER

THE IRISH CHURCH ACTS, &c.

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GENERAL RULES, INSTRUCTIONS, AND FORMS

UNDER

THE IRISH CHURCH ACTS, &c.

SECTION 1.

GENERAL RULES and ORDERS made by the COMMISSIONERS of CHURCH TEMPORALITIES in IRELAND pursuant to 8th Section of "THE IRISH CHURCH ACT, 1869."

I. RULES and FORMS as to GENERAL PROCEDURE.

Dated the 21st day of October, 1869.

It is this day ordered by the Commissioners of Church Temporalities in Ireland, that the following General Rules and Orders shall take effect and be binding in relation to all proceedings to be hereafter had or taken under and in pursuance of "The Irish Church Act, 1869," and particularly in relation to the proceedings to be had under the provisions contained in sections 14, 15, 16, 18, 45, and 46 of said Act.

1. In the construction of these or any other General Rules made by the said Commissioners, the words and expressions specified in the 72nd section of the Act, and thereby interpreted, shall have the meaning thereby assigned to them, unless there be something in the subject or context of the Rules repugnant thereto: and when time is to be computed by days, it shall be exclusive of Sundays, and when it is to be computed by the month, it shall be construed calendar month; and in all cases it shall be exclusive of the first, and inclusive of the last day, unless the last day be Sunday.

2. The Commissioners may adjourn their sittings from one day to the next, or to any other day they may think expedient, having regard to the state of their business and the public convenience, but they may resume such sittings again for the despatch of business on any day or days during the interval of any such adjournment, should they find it necessary so to do.

3. Books shall be duly kept and daily entries made therein in such form and by such officers and clerks as the Commissioners may from time to time require.

4. The several claims and particulars in these Rules mentioned shall be in the forms set forth in the annexed Schedule respectively

applicable thereto, or as near as the circumstances will permit, and every such claim and particulars shall be signed by the ecclesiastical person or other claimant, and verified by his declaration in the Form No. 15, also in said Schedule set forth.

5. Every such claim, statement, and particulars, and all notices by ecclesiastical persons or other claimants, shall either be lodged in the office of the Commissioners, situate at No. 24, Upper Merrion-street, or sent by post under covers directed to the said Commissioners, at their office aforesaid. And all notices by the Commissioners to ecclesiastical persons or other claimants may be transmitted by post, addressed to such ecclesiastical person or other claimant, at his last known place of abode.

6. The Commissioners shall, as soon as may be, cause to be circulated by post, to every ecclesiastical person or other claimant known to them, the form of application respectively applicable to their several cases. And any other person desiring to prefer a claim may obtain the same at the office of the Commissioners.

7. Within two months from the date hereof, every ecclesiastical person, claiming to have his annuity ascertained under section 14 of the Act, shall make his claim in the Form No. 1, in the Schedule hereto annexed, and the same shall be accompanied by a rent-roll or particulars of the tithe rent-charge therein stated and such documents in verification thereof as may be in the possession of the claimant.

8. Every person claiming to be a permanent curate, serving as such at any time between the 1st day of January, 1869, and the 1st day of January, 1871, and claiming to have the amount of his yearly income ascertained and declared under section 15 of the Act, shall make his claim and furnish particulars in the Form No. 2, annexed hereto.

9. Every person claiming to be a curate, but not entitled to compensation as a permanent curate, and serving as such curate at any time between the 1st day of January, 1869, and the 1st day of January, 1871, and claiming a gratuity for the loss of his curacy, under section 15 of the Act, shall make his claim and state the particulars thereof in the form No. 3, annexed hereto.

10. Within two months from the date hereof, every school-master of any diocesan or district school in Ireland claiming under section 16 of the Act, shall make his claim and furnish particulars in the Form No. 4, in the Schedule hereto annexed.

11. Within two months from the date hereof, every clerk, sexton, or other holder of a freehold office of a similar character, or of any office held during good behaviour, which the Commissioners may think equal to a freehold office, connected with any cathedral, parish, chapelry, or chapel of ease in Ireland, claiming under the 16th section of the Act, shall make his claim and state the particulars in the Form No. 5, in the Schedule hereto annexed.

12. Every person or body corporate claiming compensation under section 18 of the Act, for or in respect of any advowson, right of presentation, or nomination to any benefice or cathedral preferment, vested in or belonging to such person or body corporate,

and affected by the provisions of the Act, shall within the period prescribed by said section 18 make his claim, and furnish particulars, in the Form No. 6, in the Schedule hereto annexed, and the same shall be accompanied by an abstract of the title of the claimant, and copies of the deeds or documents referred to in support of such title.

13. Every Vicar-General, Official Principal, Commissary-General, or Chancellor, and each Registrar and Auditor claiming compensation by virtue of section 45 of the Act, shall make his claim, and furnish particulars in the Form No. 7, in the Schedule hereto annexed.

14. Every person claiming to be a Deputy Registrar, and to have discharged the duty of the office of Registrar for five years before the passing of this Act, shall make his claim and furnish particulars in the Form No. 8, in the Schedule hereto annexed; and every person claiming to be a managing or other clerk, and to have been continuously employed in a provincial or diocesan Registry for five years or upwards immediately before the passing of this Act, shall make his claim, and furnish particulars in the Form No. 9, in the Schedule hereto annexed.

15. The Chancellor and Prebendaries of Christ Church, Dublin, and any other ecclesiastical person claiming to be entitled to a right of succession in the benefices of Kilcullen, Kildare, St. Mary, St. Thomas, and St. George, Dublin, or any other benefice or benefices, shall make a claim and furnish particulars in the Form No. 10, in the Schedule hereto annexed.

16. The Commissioners may from time to time in all cases require further or amended particulars of such claim, and cause notices to that effect to be given to the ecclesiastical person or other claimant aforesaid.

17. Upon investigation of the claim and particulars aforesaid, there shall be transmitted to every such ecclesiastical person or other claimant a notice of the order made by the Commissioners in the Form No. 11, in the Schedule hereto annexed.

18. In the event of the ecclesiastical person or other claimant being dissatisfied with the said order, he shall be at liberty to apply to the Commissioner to vary or rescind said order, or he may require that his case may be heard by the three Commissioners, and if he so desire he shall, within one month from the date of the said order in the last preceding Rule mentioned, give notice to the Commissioners of such his desire, and such notice shall be in the Form No. 12 or No. 13, in the Schedule hereto annexed, as the case may be.

19. Upon the receipt from such ecclesiastical person or other claimant of a notice in said Form No. 12, the Commissioner may vary or rescind the said order.

20. Upon receipt from such ecclesiastical person or other claimant of a notice in the Form No. 13, notice shall be given to the claimant in the Form No. 14, in the Schedule hereto annexed.

21. The Commissioners shall have power to extend the time

within which any of the claims or particulars aforesaid, shall be lodged, and to permit the lodgment of such claims and particulars notwithstanding that the time for such lodgment may have elapsed.

(Signed),
 MONCK,
 JAMES A. LAWSON,
 GEORGE A. HAMILTON, } *Commissioners.*

Approved of and confirmed by the Privy Council, on the 21st day of October, 1869.

Enrolled in the Record and Writ Office of Her Majesty's High Court of Chancery, in Ireland, on the 8th day of February, 1870.

SCHEDULE referred to by the foregoing GENERAL RULES, containing the FORMS of APPLICATION, and directions as to the mode in which APPLICATIONS are to be made to the COMMISSIONERS under Sections 14, 15, 16, 18, 45, and 46 of the Act.

FORM No. 1.—APPLICATION for ANNUITY under Section 14.

[See Schedule of Forms No. 22.]

FORM No. 2.—APPLICATION for ANNUITY by CURATE (PERMANENT

[See Schedule of Forms No. 25.]

FORM No. 3.—APPLICATION for GRATUITY by a CURATE.

[See Schedule of Forms No. 26.]

FORM No. 4.—APPLICATION for ANNUITY by SCHOOLMASTER of DIOCESAN or DISTRICT SCHOOL in IRELAND.

[See Schedule of Forms No. 28.]

FORM No. 5.—APPLICATION for ANNUITY by CLERKS, SEXTONS and other HOLDERS of OFFICE of a FREEHOLD or QUASI FREEHOLD CHARACTER connected with any CATHEDRAL, PARISH, CHAPELRY, or CHAPEL of EASE in IRELAND.

[See Schedule of Forms No. 30.]

FORM No. 6.—LAY PATRON'S CLAIM for COMPENSATION under Section 18.

[See Schedule of Forms No. 33.]

FORM No. 7.—CLAIM for COMPENSATION under Section 45.

[See Schedule of Forms No. 34.]

FORM No. 8.—CLAIM of DEPUTY REGISTRAR.

[See Schedule of Forms No. 37.]

FORM No. 9.—CLAIM of DIOCESAN REGISTRY CLERKS under Section 45.

[See Schedule of Forms No. 38.]

FORM No. 10.—CLAIM for COMPENSATION under Section 46.

[See Schedule of Forms No. 39.]

FORM No. 11.—NOTICE that a **CONDITIONAL ORDER** has been made by one of the **COMMISSIONERS of CHURCH TEMPORALITIES in IRELAND.**

[See Schedule of Forms No. 18.]

FORM No. 12.—NOTICE of **APPEAL** to the **THREE COMMISSIONERS.**
[See Schedule of Forms No. 19.]

FORM No 13.—NOTICE of **APPEAL** to **ONE COMMISSIONER.**
[See Schedule of Forms No. 20.]

FORM No. 14.—NOTICE of **APPOINTMENT of DAY for HEARING APPEAL.**
[See Schedule of Forms No. 21.]

FORM No. 15.—**GENERAL FORM of DECLARATION.**
[See Schedule of Forms No. 17.]

II.—RULES for CALCULATING VALUE of PERPETUITIES, and VALUE of LIFE INTERESTS.

Dated the 30th day of May, 1870.

1. The Commissioners of Church Temporalities in Ireland having had under their consideration the basis upon which the late Ecclesiastical Commissioners for Ireland calculated the purchase money to be paid for a grant in perpetuity by tenants holding under leases for twenty-one years customarily renewable, and having regard to the present position of such tenants under the provisions of the Church Temporalities Acts, and of the Irish Church Act, 1869, have deemed it expedient to fix a scale for calculating the value of the fee and of the tenant's interest, which shall be uniform in its operation, and just and equitable towards the tenants, and therefore—

Do hereby Order and Direct that, for the future, in proceeding to ascertain the amount to be paid by a tenant holding under any such lease, the value of the fee-simple, subject to the future rent to be reserved, shall be calculated and ascertained in the same manner and upon the same basis as was adopted by the late Ecclesiastical Commissioners, viz., by deducting from the gross annual value of the lands the amount of the rent reserved by the lease and the annual fine and fees (which together constitute the future rent to be reserved by the grant in perpetuity), and multiplying the remainder by twenty, and from the amount so ascertained deducting four per cent., the result so ascertained to be deemed the estimated value of the fee ; That in estimating the value of the tenant's interest the rent, annual fine and fees, shall be deducted from the gross annual value, and the remainder multiplied by seventeen and one-half, shall be deemed the value of the tenant's interest under his lease ; and the difference between the value of the fee and of the tenant's interest so ascertained shall be the amount of purchase money to be paid by such tenant for a grant in perpetuity, subject to the future rent to be reserved by such grant.

2. It is ordered that the following shall be the Table for the Commutation of Life Interests under the Irish Church Act :—

Age.	No. of Years' Purchase.	Present Value of an Annuity of £10.	Age.	No. of Years' Purchase.	Present Value of an Annuity of £10.
		£ s. d.			£ s. d.
21	18.758461	187 11 8	60	10.342420	103 8 6
22	18.673457	186 14 8	61	10.038303	100 7 8
23	18.594421	185 18 10	62	9.720362	97 4 0
24	18.514859	185 2 11	63	9.391525	93 18 3
25	18.431364	184 6 3	64	9.063036	90 12 7
26	18.340324	183 8 0	65	8.735368	87 7 0
27	18.225598	182 5 1	66	8.408186	84 1 7
28	18.102159	181 0 5	67	8.102770	81 0 6
29	17.970644	179 14 1	68	7.800901	78 0 2
30	17.831579	178 6 3	69	7.502690	75 0 6
31	17.685197	176 17 0	70	7.210035	72 2 0
32	17.532000	175 6 5	71	6.925274	69 5 0
33	17.369923	173 14 0	72	6.647211	66 9 5
34	17.198135	171 19 7	73	6.367660	63 13 6
35	17.016957	170 3 4	74	6.077410	60 15 6
36	16.827558	168 5 6	75	5.778273	57 15 8
37	16.632190	166 6 5	76	5.470566	54 14 1
38	16.430968	164 6 2	77	5.121838	51 4 4
39	16.225472	162 5 1	78	4.776439	47 15 3
40	16.013441	160 2 3	79	4.445850	44 9 2
41	15.793828	157 18 9	80	4.123102	41 4 7
42	15.560287	155 12 0	81	3.810107	38 2 0
43	15.318154	153 3 7	82	3.512199	35 2 5
44	15.064324	150 12 10	83	3.212603	32 2 6
45	14.798641	147 19 8	84	2.912203	29 2 5
46	14.521242	145 4 3	85	2.624671	26 4 11
47	14.225646	142 5 1	86	2.348388	23 9 8
48	13.920584	139 4 1	87	2.112027	21 2 4
49	13.607268	136 1 5	88	1.911887	19 2 4
50	13.289382	132 17 10	89	1.743958	17 8 9
51	12.970687	129 14 1	90	1.592497	15 18 6
52	12.663017	126 12 7	91	1.484006	14 16 9
53	12.359400	123 11 10	92	1.326836	13 5 4
54	12.062496	120 12 6	93	1.182141	11 16 5
55	11.771310	117 14 3	94	1.041002	10 8 2
56	11.484140	114 16 10	95	.885828	8 17 2
57	11.201713	112 0 4	96	.673920	6 14 9
58	10.919702	109 3 11	97	.427862	4 5 6
59	10.633726	106 6 9	98	Nil.	Nil.

This TABLE shows the number of Years' Purchase, and also the value in Cash of an Annuity of £10 on the life of a Male of an age abovementioned, the interest of money being taken after the rate of three and a half per centum per annum, payable half-yearly, and the law of mortality being that adopted for the Tables regulating the grant of annuities on Male Lives at the National Debt Office.

(Signed),
 MONCK,
 J. A. LAWSON,
 GEO. A. HAMILTON, } Commissioners.

Approved of and confirmed by the Privy Council, on the 30th day of May, 1870.

Enrolled in the Record and Writ Office of Her Majesty's High Court of Chancery, in Ireland, on the 18th day of November, 1870.

III.—RULES as to PAYMENT of ANNUITANTS.

As amended and approved by the Privy Council, 29th June, 1871.

It is this day ordered by the Commissioners of Church Temporalities in Ireland, that the following shall be the General Rules and Orders with respect to the payment of Annuitants, under the 14th, 15th, and 16th Sections of the Irish Church Act.

1. All Annuities under these Sections shall be payable half-yearly, on the 1st January and 1st July, in each year, commencing with the 1st July, 1871 ; and in case of the death of the Annuitant between the gale days, a proportionate part of such Annuity will be paid to his personal representative.

2. Each Annuitant claiming to be entitled, under the 14th Section of the said Act, to payment of the first and each succeeding half-yearly gale of an Annuity, ascertained and declared thereunder, shall furnish to the Commissioners, if required by them, a certificate signed on behalf of the Representative Church Body, to the effect following :—

- (a.) That he continues to discharge his duties in respect of the Benefice or Preferment in respect of which the Annuity was granted ; or,
- (b.) That he is discharging other spiritual duties in Ireland, which have been substituted for the original duties which he was bound to discharge, with the consent of the Representative Church Body ; or if not discharging such duties,
- (c.) That he has been, and is, disabled from so doing by age, sickness, or permanent infirmity, or by any cause other than his own wilful default, to be specified in such certificate.

3. Each Annuitant claiming to be entitled under the 15th Section of the said Act, to payment of the first and each succeeding half-yearly gale of an Annuity, ascertained and declared thereunder, shall furnish to the Commissioners, if required by them, a certificate, signed on behalf of the Representative Church Body, to the effect following :—

- (a.) That he continues to discharge the duties of the Curacy in respect of which the Annuity was granted ; or,
- (b.) Other spiritual duties in Ireland, which with his own consent and the consent of the Representative Church Body, have been substituted for them ; or, if not discharging such duties,
- (c.) That he has been disabled from so doing by age, sickness, or permanent infirmity, or any cause other than his own wilful default, to be specified in such certificate.

4. In the case of a Curate, whose salary is deducted from an Incumbent, in case he is discharging other duties than those of his

original Curacy, he shall furnish to the Commissioners a certificate, signed by the Incumbent from whom such deduction is made, that such change in his duties was made with his consent.

5. Each Annuitant claiming to be entitled under the 16th Section of the said Act, to the first and each succeeding half-yearly gale of his Annuity, shall furnish to the Commissioners, if required by them, a certificate, signed on behalf of the Representative Church Body, to the effect following :—

In the case of a Diocesan Schoolmaster.

That he continues to perform the duties of his office personally or by sufficient deputy, in the same School, in respect of which the Annuity was granted.

In the case of Clerks, Sextons, and other officers of the Church.

(a.) That he continues to perform the duties of his office personally, or by sufficient deputy, in the same Cathedral, Church, or Chapel, in respect of which his Annuity was granted ; or,

(b.) That he is discharging other duties of the same kind as his original duties, which have been assigned to him by the Representative Church Body.

6. The Representative Church Body shall be bound to give such certificate to each Annuitant applying for the same, or to give a statement in writing, signed on their behalf, specifying their reasons for withholding it.

Dated this 30th day of January, 1871.

(Signed), MONCK,
JAMES A. LAWSON, } Commissioners.

Approved of and confirmed by the Privy Council, on the 29th day of June, 1871.

Enrolled in the Record and Writ Office of Her Majesty's High Court of Chancery, in Ireland, on the 4th day of July, 1871.

IV.—RULES as to ARBITRATIONS.

Dated the 3rd day of July, 1872.

It is this day Ordered by the Commissioners of Church Temporalities in Ireland, that the following Rules shall apply to all proceedings under the 42nd Section of "The Irish Church Act, 1869."

1. Any person aggrieved by the value set by the Commissioners on any life interest or other interest, and desiring to refer the same to arbitration, shall be bound to serve notice on the Commissioners of such his desire, within one month after the date of the posting of the letter notifying to him the value set thereon by the Commissioners.

2. Any person aggrieved by the value set by the Commissioners

on any advowson or right of presentation, and desiring to refer the same to arbitration, shall be bound to serve notice on the Commissioners, of such his desire, within one month after the date of the posting of the letter notifying to him the value set thereon by the Commissioners.

3. The Commissioners shall have power to extend the time within which such notices shall be served, or to permit such arbitrations to take place, notwithstanding that one month may have elapsed.

(Signed), *MONCK,*
 J. A. LAWSON, } *Commissioners.*

Approved of and confirmed by the Privy Council, on the 3rd day of January, 1873.

Enrolled in the Record and Writ Office of Her Majesty's High Court of Chancery, in Ireland, on the 17th day of January, 1873.

SECTION 2.

CHANCERY ORDER of the 28th July, 1871, as to RECEIVERS of TITHE RENT-CHARGE.

GENERAL ORDER by the RIGHT HONORABLE BARON O'HAGAN, Lord High Chancellor of Ireland.

It is hereby Ordered that the Commissioners of Church Temporalities in Ireland, do hereafter from time to time as same shall accrue and become payable, pay to the several Receivers heretofore appointed over Tithe Rent-charges, and still continuing to be Receivers over same, all the Annuities severally and respectively awarded to the Owners of the said Tithe Rent-charges, and duly receivable by such Receivers until same became vested in the said Commissioners, with all arrears, if any, now due on foot of each of said Annuities, and let said several Receivers be and they are hereby respectively discharged from the receipt of all such Tithe Rent-charges as have become vested in said Commissioners, and let said Receivers severally and respectively be and they are hereby appointed Receivers over the said Annuities, to demand, enforce, and receive same, and therefor to account in such manner and at such times as they before and at the time of this Order were and are bound to account for the Tithe Rent-charges and other Temporalities for receipt of which they were respectively appointed: And it is hereby further Ordered that payment of said Annuities by said Commissioners to the said Receivers respectively shall be to all intents and purposes good and valid payments in discharge and satisfaction pro tanto of the said Annuities, and that the receipts for same, duly signed and given by the said Receivers severally and respectively, shall be and they are hereby declared and Ordered to be good and valid acquittances to the said Commissioners for the respective sums thereby acknowledged to have been received by said Receivers: And it is further Ordered that all sums so received by said Receivers respectively shall be accounted for, and brought into Court to the same uses and for the benefit of the same parties, and to be disposed of in the same manner as the Tithe Rent-charges would be accounted for and brought into Court, had same continued to be receivable by said Receivers.

(Signed), *O'HAGAN, C.*

SECTION 3.

WARRANT appointing the RIGHT HONORABLE EDWARD SULLIVAN, Master of the Rolls, to be a MEMBER of the TRIBUNAL constituted under Section 2, of "The Irish Church Act, 1869, Amendment Act, 1872."

By the LORD LIEUTENANT GENERAL and GENERAL GOVERNOR of IRELAND.

SPENCER,

Whereas, by "The Irish Church Amendment Act, 1872," after reciting that George Alexander Hamilton, esquire, one of the three Commissioners of Church Temporalities in Ireland, appointed by "The Irish Church Act, 1869," died on the 17th day of September, 1871, it is enacted that no person should be appointed to fill the vacancy occasioned by the death of the said George Alexander Hamilton, and so much of Section 4, of "The Irish Church Act, 1869," as enacted that any person aggrieved by any Order of one of the said Commissioners might require his case to be heard by the three Commissioners is repealed, and in lieu thereof, it is enacted that any person aggrieved by any Order of one Commissioner may require his case to be heard by a Tribunal consisting of both the Commissioners for the time being of Church Temporalities in Ireland, and any Member of Her Majesty's Most Honorable Privy Council in Ireland, holding or having held any judicial office, who may from time to time be appointed by either General or Special Order, under the hand of the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being; and whereas the Right Honorable Edward Sullivan is a Member of Her Majesty's Most Honorable Privy Council, in Ireland, and now holding the judicial office of Master of the Rolls of that part of the United Kingdom called Ireland, and we are minded to appoint him the said Edward Sullivan to be the person who, with the Commissioners for the time being, of Church Temporalities in Ireland, shall constitute the Tribunal by whom any person aggrieved by any Order of one Commissioner may require his case to be reheard.

Now we, John Poyntz, Earl Spencer, Lord Lieutenant General, and General Governor of Ireland, do, in pursuance of the power vested in us by said recited Act, and of every other power us thereunto enabling, by this General Order under our hand, appoint the said Right Honorable Edward Sullivan, as the person who with both the Commissioners for the time being of Church Temporalities in Ireland, shall constitute the Tribunal by whom any person aggrieved by any Order of one Commissioner for the time being of Church Temporalities in Ireland, may require his case to be reheard.

Given at Her Majesty's Castle, at Dublin, the 28th day of October, 1872.

By His Excellency's command,

(Signed), R. N. MATHESON

SECTION 4.

CHARTER and RULES of The REPRESENTATIVE CHURCH BODY.

I. CHARTER of INCORPORATION of "THE REPRESENTATIVE CHURCH BODY."

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth: To all to whom these presents shall come, greeting: WHEREAS, by the Irish Church Act, 1869, it was enacted, that on and after the 1st day of January, 1871, the union created by Act of Parliament between the Churches of England and Ireland as by Law established should be dissolved, and that the said Church of Ireland should cease to be established by Law; AND WHEREAS by the said Act it was further provided that if at any time it should be shown to our satisfaction that the Bishops, Clergy, and Laity of the Church so disestablished, which is hereinafter referred to as the "said Church," or the persons who, for the time being, should succeed to the exercise and discharge of the Episcopal functions of such Bishops, and the Clergy and Laity in communion with such persons, should have appointed any person, or body to represent the said Church, and to hold property for any of the uses or purposes thereof, it should be lawful for us, by Charter, to incorporate such body with powers, notwithstanding the statutes of Mortmain, to hold lands to such extent as by the said Act is provided, but not further or otherwise; AND WHEREAS the said Bishops, Clergy, and Laity of the said Church have appointed—

Our right trusty and right entirely-beloved Councillor, the Right Honorable and Most Reverend Father in God, Marcus Gervais, Archbishop of the United Diocese of Armagh and Clogher, Primate and Metropolitan of all Ireland; the Right Honorable and Most Reverend Father in God, our right trusty and right entirely-beloved Councillor, Richard Chenevix, Archbishop of the United Diocese of Dublin and Glandelagh and Kildare, and Primate of Ireland; our right trusty and well-beloved Councillor, the Right Honorable and Most Reverend Father in God, Samuel Bishop of Meath; the Right Reverend Father in God, Robert, Bishop of the United Dioceses of Cashel, Emly, Waterford, and Lismore; the Right Reverend Father in God, James Thomas, Bishop of the United Dioceses of Ossory, Ferns, and Leighlin; the Right Reverend Father in God, Robert, Bishop of the United Dioceses of Down, Connor, and Dromore; the Right Reverend Father in God, William, Bishop of the United Dioceses of Killaloe, Kilfenora, Clonfert, and Kilmacduagh; the Right Reverend Father in God, John, Bishop of the United Dioceses of Cork, Cloyne, and Ross; the Right Reverend Father in God, Charles, Bishop of the United Dioceses of Limerick, Ardfert, and Aghadoe; the Right Reverend Father in God, Charles Brodrick, Bishop of the United Dioceses of Tuam, Killala, and Achonry; the Right Reverend Father in God, William, Bishop of the United Dioceses of Derry and Raphoe; the Right Reverend Father in God, Thomas, Bishop of the United Dioceses of Kilmore, Elphin, and Ardagh; our trusty and well-beloved Alexander Irwin, Clerk, Master of Arts; our trusty and well-beloved John William Ellison Macartney, Esquire; our trusty and well-

beloved Robert Baron Templer, Esquire; our trusty and well-beloved the Venerable Edward Adderly Stopford, Doctor of Laws, Archdeacon of Meath; our trusty and well-beloved William Barlow Smythe, Esquire, Deputy Lieutenant; our trusty and well-beloved Hans Hamilton Woods, Esquire, Deputy Lieutenant; our trusty and well-beloved William Macklin Edwards, Master of Arts, Clerk; our trusty and well-beloved Robert George Montgomery, Esquire, Deputy Lieutenant; our trusty and well-beloved William Edward Scott, Esquire; our trusty and well-beloved Jeffry Lefroy, Master of Arts, Clerk; our trusty and well-beloved John Mulholland, Esquire; our trusty and well-beloved Anthony Traill, Doctor of Laws; our trusty and well-beloved the Very Reverend Augustus William West, Dean of the Cathedral Church of Ardagh; our trusty and well-beloved Thomas George Wills Sandford, Esquire; our trusty and well-beloved Joseph Story, Esquire; our trusty and well-beloved Sir Francis Arthur Knox Gore, Baronet; our trusty and well-beloved Robert Blundell, Master of Arts, Clerk; our trusty and well-beloved James O'Hara, Esquire, Deputy Lieutenant; our trusty and well-beloved the Very Reverend John West, Dean of the Collegiate and Cathedral Church of St. Patrick, Doctor of Divinity; our right trusty and well-beloved cousin, the Right Honorable William Earl of Meath; our trusty and well-beloved Andrew Searle Hart, Doctor of Laws; our trusty and well-beloved the Venerable John Evans Johnson, Doctor of Divinity, Archdeacon of Ferns; our right trusty and right well-beloved cousin, the Right Honorable James George Henry Earl of Courtown; our right trusty and right well-beloved cousin, the Right Honorable Thomas Viscount De Vesci; our trusty and well-beloved Sir Robert Paul, Baronet; our trusty and well-beloved Robert Bell, Doctor of Divinity; our trusty and well-beloved Richard Uniacke Bayly, Esquire; our right trusty and well-beloved Councillor the Right Honorable Hedges Eyre Chatterton, Vice-Chancellor of Ireland; our right trusty and well-beloved Councillor the Right Honorable Robert Richard Warren, Judge of our Court of Probate in Ireland; our trusty and well-beloved Robert Samuel Gregg, Master of Arts, Clerk; our trusty and well-beloved the Honorable Charles James Trench; our trusty and well-beloved Sir William Osborne, Baronet, Deputy Lieutenant; our trusty and well-beloved the Venerable Christopher Henry Gould Butson, Archdeacon of Clonfert; our right trusty and well-beloved the Right Honorable Dayrolles Blakeney, Baron Ventry; our trusty and well-beloved the Very Reverend John Godfrey Day, Master of Arts, Dean of the Cathedral Church of Ardfer; our trusty and well-beloved Charles John Aldworth Coote, Esquire (being the elected members of such body); and our right trusty and well-beloved Councillor the Right Honorable Mountfort Longfield, Doctor of Laws; our right trusty and well-beloved Councillor the Right Honorable John Thomas Ball, Doctor of Laws; our trusty and well-beloved George Salmon, Doctor of Divinity, Regius Professor of Divinity in our University of Dublin; our trusty and well-beloved the Venerable Samuel Moore Kyle, Doctor of Laws, Archdeacon of Cork; our trusty and well-beloved John Barlow, Esquire; our trusty and well-beloved Joseph Carson, Doctor of Divinity; our trusty and well-beloved James Chaigneau Colvill, Esquire; our trusty and well-beloved Joseph Allen Galbraith, Clerk, Master of Arts; our trusty and well-beloved William Digges La Touche, Esquire, Deputy Lieutenant; our trusty and well-beloved William Ewart, junior, Esquire; our trusty and well-beloved James Spaight, Esquire; our trusty and well-beloved James Robert Stewart, Esquire, Deputy Lieutenant—

(Being the co-opted members of the said body); and their successors to be appointed as hereinafter mentioned, to represent the said Church, for the purposes of the said Act, and to hold property for the use of the said Church, and to exercise the functions and powers by the said Act given to the body therein called the Representative Body of the said Church; **AND WHEREAS** the words "Archbishop" and "Bishop" shall hereinafter in these presents respectively include any person who, for the time being, shall succeed to the exercise and discharge of the Episcopal functions of any Archbishop or Bishop (as the case may be) of said Church; and the word "Diocese" shall hereinafter in these presents mean a district, or union of districts, presided over by any such Archbishop, Bishop, or person; and the words "General Synod" shall hereinafter in these presents

mean a general Synod or Convention of the said Church held or convened, as in the 19th section of the said Act is in that behalf mentioned or referred to. Now KNOW ALL MEN by these presents, that We, of our especial grace, certain knowledge, and mere motion, by and with the advice and consent of our right trusty and entirely-beloved cousin and Councillor John Poyntz, Earl Spencer, K.G., our Lieutenant General and General Governor of that part of our said United Kingdom of Great Britain and Ireland called Ireland; and according to the tenor and effect of our Letter under our Privy Signet and Royal Sign Manual, bearing date at our Court, at St. James's, the eighth day of October, one thousand eight hundred and seventy, in the thirty-fourth year of our reign, and now enrolled in the Record and Writ Office of the High Court of Chancery in Ireland aforesaid, do for Us, our heirs, and successors, grant, constitute, declare, and appoint that the said [*here is repeated in the Charter the names already mentioned*]; and their successors to be appointed as hereinafter mentioned, shall be one corporation or body politic, to have continuance for ever by the name of "THE REPRESENTATIVE CHURCH BODY;" and we hereby incorporate the said above-named persons to have perpetual succession by the same name, and also by the same name to sue and be sued, plead and be impleaded, answer and be answered unto in all the courts and places whatsoever of Us, our heirs and successors, in all suits, plaints, and demands whatsoever. And that they and their successors shall have a common seal, with such stamp and inscription to be made and engraved thereon as they shall think proper; and that it shall be lawful for them and their successors to break and alter, or renew the said seal as they shall think proper; and that they shall have power notwithstanding the Statutes of Mortmain, to hold lands to such extent as by the said Act is provided; and further, that they may receive for the use of the said Church, or for any purposes connected therewith, any money, goods, or chattels that may be given or bequeathed to them by any person or body politic capable of making a gift or bequest thereof. And we grant and ordain that the said Representative Body shall exercise all the powers, and perform all the functions and duties intended by the said Act to be performed by the Body in the said Act called the Representative Body of the said Church. And we grant and ordain that the said Representative Body shall hold all property which shall become vested in it, upon, and for such trusts, objects, and purposes, and with, and subject to, such powers and regulations (such trusts, objects, and purposes, powers and regulations, not being inconsistent with, or in violation of, the said Act, or any other law of this realm), as the General Convention of the said Church assembled in the year 1870, or any General Synod of the said Church from time to time, shall, in that behalf, have directed, or shall direct, and that the said Representative Body shall be subject to the order and control of such General Synod in all matters not provided for by the said Act, or the laws of this realm. And we ordain and declare that the corporation hereby created is, and shall be, composed of three classes, hereinafter respectively called, the Ex-officio, the Elected, and the Co-opted Members; and that the Ex-officio Members shall be the Archbishops and Bishops of the said Church for the time being, and that the Elected Members shall consist of one Clerical and two Lay Representatives for each Diocese or union of Dioceses, presided over by one Bishop, and shall be qualified and elected as hereinafter mentioned; and that the Co-opted Members shall consist of persons equal in number to the number of such Dioceses for the time being, to be elected by the Ex-officio and Elected Members; and we further order that the Elected Members and their successors, shall retire from office by rotation, one-

third, or if at any time hereafter their numbers shall not be a multiple of three, the number nearest to one-third of the Clerical and Lay Members respectively, retiring at the commencement of each ordinary meeting of the General Synod of the said Church. Provided that on and after the third ordinary meeting of the General Synod those elected members and those only shall retire by rotation who shall have been longest in office; and we order that the rotation according to which the elected members shall retire shall be settled by the said Representative Body, and shall be so arranged that not more than one elected member for the same diocese shall retire in the same year. And we order that the co-opted members shall also retire from office by rotation, one-third, or if at any time hereafter their number shall not be a multiple of three, then the number nearest to one-third, retiring at each ordinary meeting of the General Synod of the said Church; and that the co-opted members who are to retire at the first and second of such sessions shall be determined by lot; and at each subsequent session those longest in office shall retire; and that all members, whether elected or co-optive, who shall so retire, shall be capable of being re-elected, either to fill the vacancy occasioned by such retirement, or any other vacancies then or at any future time occurring, for which they shall be in other respects duly qualified. And we order that all vacancies occurring by rotation of any elected members shall be filled up by election by the clerical and lay representatives (in the General Synod) of the respective Dioceses in which such vacancies shall occur, the clerical representatives present voting for the clerical members only, and the lay representatives present voting for the lay members only; any casual vacancy by death, resignation, or otherwise, occurring among the elected members, shall be filled, as soon as conveniently may be, by the clerical or lay representatives, as the case may be, of the diocese for which such vacancy shall have occurred; any vacancy occurring among the co-opted members shall be filled up by election by the remaining members of the said Representative Body. Provided, however, that the names of the persons so co-opted, shall be laid before the General Synod, if it shall then be sitting, and if it shall not be then sitting, then before the General Synod at its next sitting; and such General Synod may either confirm such co-option, or remove the person or persons so co-opted, and substitute any other person or persons in his or their place; and and that if the General Synod shall pass a resolution, that any elected or co-opted member of the said Representative Body shall be removed for sufficient cause to be expressed in such resolution, such person shall immediately cease to be a member thereof, and his place shall be vacant as if such person had died. Any person elected or co-opted to fill a casual vacancy, shall hold office only so long as the person into whose place he shall be elected would have held office if such vacancy had not occurred.

AND WE FURTHER GRANT AND DECLARE that the said Representative Body shall be subject nevertheless to such alterations in the number of the said Representative Body, or in the rules laid down for the qualification, election, or retirement of its members, as shall from time to time be adopted by the General Synod of the said Church. And lastly, we do by these presents grant to the said Representative Body and their Successors, that these our Letters Patent, or the enrolment or exemplification thereof, and all and singular the matters and things in the same contained, shall and may be good, valid, and effectual in the Law, according to the true intent and meaning of the same, and shall be taken, construed, and adjudged in the most favourable and beneficial sense, and for the best advantage of the said Representative Body and their Successors, as well in all our Courts of Record, as elsewhere, and by all and singular the Judges, Justices, Officers, Ministers, and other subjects whatsoever of

us, our heirs, and successors, any omission, imperfection, defect, cause, or thing whatsoever to the contrary thereof in anywise notwithstanding. Provided always that these our Letters Patent be enrolled in the Record and Writ Office of our High Court of Chancery in that part of our said United Kingdom called Ireland, within the space of six months next ensuing the date of these presents. IN WITNESS whereof we have caused these our Letters to be made Patent. Witness—Our Lieutenant-General and General Governor of Ireland, at Dublin, this fifteenth day of October, in the thirty-fourth year of our reign.

RALPH S. CUSACK, Clerk of the Crown and Hanaper.

Enrolled in the Record and Writ Office of Her Majesty's High Court of Chancery in Ireland, on the nineteenth day of October, One Thousand Eight Hundred and Seventy.

II.—REPORT and RESOLUTIONS of the REPRESENTATIVE CHURCH BODY in connexion with COMMUTATION and COMPOUNDING.

By the 23rd section of the Irish Church Act, it is enacted, that, after the first day of January, 1871, the Clergy may apply to the Commissioners of Church Temporalities to commute their Annuities and value of life interests in any kind of ecclesiastical property, and that the Commissioners, in case the Representative Body assent to such Commutation, shall pay the amount of the estimated value to the Representative Body, charged with the payment of the annuities and life interests thus commuted to the respective annuitants, so long as they shall require the same. By the same section, the Commissioners are bound to pay to the Representative Body 12 per cent. in addition to the estimated value, provided that not less than three-fourths of the Ecclesiastical Persons of a Diocese or United Diocese, agree to commute before the 1st day of January, 1873.

The Commutation Table (Table I.) annexed to this Report, has been proposed by the Commissioners. It was calculated by Mr. Alexander Glen Finlaison, Actuary of the National Debt Commissioners, on the law of mortality of Government annuitants, and at the rate of interest of money, $3\frac{1}{2}$ per cent. per annum, payable half-yearly.

As to the safety of Commutation to the Clergy, it is plain that a Commutation Fund, invested at the same rate of interest as that on which it is calculated from a sound table of mortality, must as a general rule be sufficient to meet all claims upon it, excepting of course the expense of management. If the Fund be invested at a higher rate of interest, there will be a surplus available to meet this charge. If the 12 per cent. addition be taken into account, the Representative Body feel no hesitation in saying that, even should the Fund be invested at no higher interest than that which can be obtained in Government securities at their present rate, it would be amply sufficient to meet all claims. They believe that an average rate of 4 per cent. may be fairly expected. Finally, the guarantee, which the Sustentation Fund will provide, ought to remove all question as to the safety of Commutation, augmented as the Fund will no doubt be, by the unappropriated surplus of the £500,000, to which the Church is entitled in lieu of private endowments.

While the Representative Body have no doubt as to the safety of Commutation, they believe that the benefits to be derived from it are more of a moral than a financial character. It is needless to dwell on the importance of co-operative action in the present crisis of our affairs. By such action only can the Church of Ireland be reconstituted on a firm and permanent basis. If once the Commutation Fund is in the hands of the Representative Body, it may be hoped that there will be present a constant sense of the duty which lies upon the Church of preserving it as a permanent endowment. The Representative Body do not see any other way in which the Church can be so surely preserved from falling into a purely congregational system.

The estimated value of a general Commutation of incomes, including the 12 per cent. bonus, is about five and three-quarter millions. The revenue arising from this at 4 per cent. is £230,000, just one-half the actual amount of Clerical

income. The object to be aimed at, therefore, must be to supply the other half by Donations and Subscriptions. If this mode of Securing the Commutation Fund were adopted, parish by parish, the great object would no doubt be accomplished; but the efforts demanded would be very unequal, and it is therefore to be hoped, that the support of the Church may be secured by a general effort, the poorer parishes being helped by those which have greater means.

By the 23rd section of the Irish Church Act, power is given to the Representative Body

‘to make such arrangements in respect of the commuted value of the annuity with the annuitant, and as to the disposal of such portion thereof as shall after such arrangements be applicable to Church purposes, as shall to such Body seem fit.’

This clause refers to what is commonly called Compounding, a transaction in which the Commutation money is to be divided into two parts, one becoming immediately the property of the Incumbent, the other being vested in the Representative Body for the benefit of the Church.

In consequence of the recent debates in the Convention in reference to these subjects, the Representative Body have felt it their duty carefully to reconsider their former Resolutions, and the various objections made to them, and to adopt some additional provisions. The following are the Resolutions at which they have finally arrived:—

1°. On and after the 1st day of January, 1871, and before the 1st day of March, 1871, the Representative Body will consent to Commutation in any United Diocese, including in this term the Diocese of Meath, where three-fourths at least of the Ecclesiastical Persons consent to commute.

2°. In every such United Diocese as aforesaid, where three-fourths of the Ecclesiastical Persons agree to commute, such of them as desire it shall be paid their incomes quarterly, and an order for the amount shall be sent to them by post on the quarter days.

3°. In the case of a Commuting Clergyman who hereafter may be offered, and may desire to accept, some other appointment in Ireland, the Representative Body will be prepared to consider all the circumstances of the two Parishes, and to make such arrangements as shall appear to them equitable; and in particular it will be their desire to facilitate any arrangement necessary to make up the income of every Incumbent to at least £200 per annum.

4°. In every case in which three-fourths at least of the Ecclesiastical Persons of such United Diocese as aforesaid, shall on or before the 1st day of March, 1871, have consented to commute, every such person shall at the time of Commutation have the right of Composition, on the following terms, viz., that every person of the age of 65 and upwards, may receive two-thirds of his Commutation money, including the 12 per cent. bonus; and that for persons of lower ages one-ninetieth part of the whole Commutation money shall be deducted for every year below 65. (See Table II.)

5°. In any such United Diocese, as aforesaid, where three-fourths or more of the Ecclesiastical Persons have consented to commute, the privilege of Composition of his then existing interest on the terms above stated shall be possessed by any of these Clergymen at any time after the 1st day of March,* 1871, provided that his life shall be insurable at ordinary rates at the time of Composition; provided, however, that the right of Composition granted by clauses 4° and 5° shall, in any case where the Clergyman applying, has not, previous to his application, served in the ministry of the Church in Ireland, at any time, for a period of three years, be subject to the discretion of the Representative Body, who shall be at liberty to postpone his Composition until he shall have completed such period of service.

6°. Every Clergyman, claiming the right of Composition, shall be subject in all respects, to such arrangements with regard to his Glebe House or Lands, and as to the continuance (if he should desire it) of his connexion with his Parish, as the Representative Body may determine. In cases where a Compounding Clergyman shall desire to withdraw from his Parish, he shall be subject to the provisions of the Church Statutes, c. iii. ss. 17, 18.

* Extended to 1st May in consequence of controversy about Commutation Tables.

7°. Where an Incumbent includes his Glebe House in his Commutation, and thus receives an addition to his income for its full annual value, the Representative Body will, in every case where they shall purchase the House and become its proprietor, allow the Incumbent to use and occupy the same, and the curtilage and garden, at a rent of two-thirds of such annual value; and, in cases where exceptional circumstances appear to them to justify it, a reduction of the rent may be made. The arrangement as to the Land, which may be taken by the Representative Body in addition to the curtilage and garden, must be regulated by the circumstances of each case.

8°. During the lifetime of the Clergyman who compounds, a sum, equivalent to the interest of the money left by him in the hands of the Representative Body, shall be paid for the performance of the spiritual duties of his Parish, or held in trust for the benefit of the same; but after the death of such Clergyman, the money, so left in the hands of the Representative Body, shall be considered the property of the Church at large, and not of the particular parish, unless a special agreement shall have been made to the contrary.

9°. Unless there be some cause for special objection, the Representative Body will consent to allocate the whole, or part of the sum, left in their hands by Composition, for the permanent endowment of the Parish, provided that a like sum be secured to the Representative Body for the same purpose, within one year after the date of Composition; the sum notwithstanding such special appropriation, to be still subject to the same lien in favour of the Commuting Clergy, as the other portions of the Commutation Fund.

N.B.—The arrangements in clauses 8° and 9° are to be considered always subject to such amalgamation of Parishes, or such re-arrangement of the boundaries of Parishes or Dioceses, as may hereafter be made by competent authority.

10°. Various other suggestions have been made to the Representative Body, for the appropriation, to the Parishes of the commuting or compounding Clergymen, of the money received from their Commutation or Composition, in return for local contributions, either by way of annual subscriptions or donations or the grant of annuities, so as to form permanent endowments for such Parishes. The Representative Body will receive any propositions of this character, which may be made by the Incumbents and their Parishioners (although differing from the present Resolutions), and will give them a most favourable consideration.

11°. In the case of a Clergyman who commutes but does not compound, the Representative Body will be prepared to advance him so much of the Commutation money as may be agreed on, upon the security of his annuity, on the terms set forth in Table III.; or, in case of his assigning to the Representative Body an approved Policy of Assurance on his life they will advance the money at the rate of 4 per cent. interest, in addition to the premium payable on the Policy.

12°. The cases of stipendiary Curates, whose stipends are deducted from those of their Rectors, are exceptional; and each case will be considered upon its merits by the Representative Body. The Table for joint lives, which are requisite in order to decide upon these cases, have not yet been issued by the Commissioners of Church Temporalities.

13°. A General Commutation of the Incomes of Clerks and Sextons seems desirable, and each Parish is invited to make up annually, while the present holders of the Offices continue to fulfil their duties, the difference between the Interest of the Capital and the Annuities payable; and, where this is done, the Income shall be regarded as a permanent Fund for the benefit of the Parish. Where the services of Clerks and Sextons are not required, they will be allowed to compound on the same terms as the Clergy.

14°. The Representative Body cannot too earnestly appeal to the Diocesan Councils, the Clergy, and the Laity, to have all the details requisite for Commutation, if it is to take place at all, fully collected before the 31st December, 1870. (These details should include the ages of the Clergy, the amounts of building charges, the tenement valuation of Ecclesiastical Residences, and their actual value, as well as the value of each site.) Every death among the Clergy occurring after the 1st of January, 1871, and before actual Commutation takes place, will diminish the advantage of Commutation, both in the purchase of Ecclesiastical Residences, and in the amount of the bonus; and each week's

delay, after the close of this year, will probably cost the Church the loss of at least one Clerical life. It is also to be observed that if Commutation be delayed until after the 31st of March, 1871, the Commissioners of Church Temporalities have reserved to themselves the right to investigate the state of health of those applying to commute.

15°. The Representative Body reserve to themselves the power of considering propositions from individual Ecclesiastical Persons in reference to both Commuting and Compounding, and of granting more favourable terms than those offered by the foregoing Resolutions, in cases in which it appears to them proper to do so.

16°. An agreement which each commuting Clergyman will be required to sign, is subjoined.* Its provisions secure for him the same rights and privileges as he would have had, if he had not commuted.

Signed by order of the Representative Body,

THOMAS GREENE,

19th November, 1870.

Secretary.

TABLE I.—TABLE for the COMMUTATION of LIFE INTERESTS adopted by the Commissioners of Church Temporalities.

[See *ante*, General Rules, No. II.]

TABLE II.—TABLE showing the COMPOSITION VALUES of an ANNUITY of £10 on the Scale agreed to by the Representative Body.

Age.	Number of Years' Purchase, with 12 per cent.	Number of Nine-tieths.	Composition Value of an Annuity of £10.	Age.	Number of Years' Purchase, with 12 per cent.	Number of Nine-tieths.	Composition Value of an Annuity of £10.
			£ s. d.				£ s. d.
23	20.825	18	41 13 0	44	16.872	39	73 2 3
24	20.736	19	43 15 6	45	16.574	40	73 13 3
25	20.643	20	45 17 6	46	16.263	41	74 1 10
26	20.541	21	47 18 7	47	15.932	42	74 7 0
27	20.412	22	49 17 11	48	15.591	43	74 9 2
28	20.274	23	51 16 3	49	15.240	44	74 10 2
29	20.127	24	53 13 5	50	14.884	45	74 8 5
30	19.971	25	55 9 6	51	14.527	46	74 5 0
31	19.807	26	57 4 5	52	14.182	47	74 1 3
32	19.635	27	58 18 2	53	13.842	48	73 16 6
33	19.454	28	60 10 6	54	13.510	49	73 11 1
34	19.261	29	62 1 4	55	13.183	50	73 4 10
35	19.059	30	63 10 8	56	12.868	51	72 17 9
36	18.847	31	64 18 4	57	12.546	52	72 9 9
37	18.628	32	66 4 8	58	12.230	53	72 0 5
38	18.402	33	67 9 6	59	11.909	54	71 9 2
39	18.172	34	63 13 0	60	11.583	55	70 15 9
40	17.935	35	69 14 11	61	11.243	56	69 19 1
41	17.689	36	70 15 1	62	10.887	57	68 19 0
42	17.427	37	71 12 11	63	10.518	58	67 15 9
43	17.156	38	72 8 9	64	10.150	59	66 10 10
44	16.872	39	73 2 3	65	9.783	60	65 4 6

N.B.—For explanation of this Table see Resolution 4° of the preceding Resolutions of the Representative Church Body.

* See agreement in Report of the Representative Church Body for 1871.

TABLE III.—TABLE showing the AMOUNT to be DEDUCTED from ANNUITY for each £100 of Commutation Money advanced by the Representative Body.

Age.	Amount to be deducted.	Age.	Amount to be deducted.	Age.	Amount to be deducted.
	£ s. d.		£ s. d.		£ s. d.
23	5 17 2	41	6 16 2	59	10 0 2
24	5 17 7	42	6 18 2	60	10 5 9
25	5 18 0	43	7 0 3	61	10 12 0
26	5 18 7	44	7 2 6	62	10 18 9
27	5 19 3	45	7 5 0	63	11 6 5
28	6 0 0	46	7 7 7	64	11 14 7
29	6 0 9	47	7 10 8	65	12 3 7
30	6 1 8	48	7 13 10	66	12 13 0
31	6 2 6	49	7 17 3	67	13 2 6
32	6 3 6	50	8 0 11	68	13 12 8
33	6 4 7	51	8 4 9	69	14 3 7
34	6 5 9	52	8 8 9	70	14 15 3
35	6 7 0	53	8 12 7	71	15 7 6
36	6 8 4	54	8 17 0	72	16 0 6
37	6 9 9	55	9 1 2	73	16 14 10
38	6 11 3	56	9 5 7	74	17 11 1
39	6 12 10	57	9 10 2	75	18 9 8
40	6 14 5	58	9 15 0		

N.B.—For explanation of this Table, see Resolution 11^o of preceding Resolutions of the Representative Church Body.

TABLE IV.—COMPOSITION TABLE for CLERKS, SEXTONS, &c.

Age.	Composition Value of an Annuity of £5.	Composition Value of an Annuity of £8.	Composition Value of an Annuity of £10.
	£ s. d.	£ s. d.	£ s. d.
25 (a)	20 9 7	32 15 4	40 19 2
(b)	22 0 5	35 4 8	44 0 10
30 (a)	24 15 3	39 12 6	49 10 7
(b)	26 11 0	42 9 8	53 2 0
35 (a)	28 7 5	45 7 7	56 14 6
(b)	30 10 5	48 16 9	61 0 10
40 (a)	31 2 9	49 16 4	62 5 6
(b)	33 19 8	54 7 6	67 19 4
45 (a)	32 17 8	52 12 3	65 15 4
(b)	36 10 10	58 9 4	73 1 8
50 (a)	33 4 5	53 3 1	66 8 11
(b)	37 19 8	60 15 8	75 19 4
55 (a)	32 14 0	52 6 3	65 7 11
(b)	37 19 4	60 15 0	75 18 8
60 (a)	31 12 0	50 11 2	63 4 0
(b)	36 13 0	58 12 10	73 6 0
65 (a)	29 2 4	46 11 9	58 4 9
(b)	33 18 11	54 6 4	67 17 10

(a) MALE LIVES. (b) FEMALE LIVES.

The foregoing Table shows the Composition Values of different Annuities of Church Officers at different Ages, on the Scale laid down by the Representative Body.

[By this Scale Church Officers of the age of 65 and upwards receive two-thirds of their Commutation Money; those of lower ages receive the same proportion, reduced by one-ninetieth part of the whole Commutation Money, for every year below the age of 65.]

The Money left in the hands of the Representative Body, arising from the difference between the Commutation and Composition Value of the Annuities of Church Officers, is invested at 4 *per cent.* for the benefit of the Parish, and on the recommendation of the Diocesan Council, can be handed over to the Select Vestry. The Composition Value in each case is paid to the Annuitant by the Commissioners. For *Gross Amount* of Commutation Money, see Table (*ante*, General Rules, No. II.) of Commissioners.

STATEMENT of the reasons which led the REPRESENTATIVE BODY to recommend a GENERAL COMMUTATION as safe to the COMMUTING CLERGY and beneficial to the CHURCH, on the TABLE for the COMMUTATION of LIFE INTERESTS, proposed by the COMMISSIONERS of CHURCH TEMPORALITIES.

THE Representative Body have recommended General Commutation as safe to the Clergy and beneficial to the Church, even on the Table which has lately been the subject of controversy; and they now state briefly some of the reasons which have led them to this conclusion.

As it was evident that the financial results of Commutation would, to a great extent, depend upon the correctness of the estimate of the Expectancy of Life, upon which the Table was calculated, the Representative Body submitted that Table to an eminent Actuary, Dr. Farr, for his opinion.

Dr. Farr reported, that in his opinion it was based upon too low an estimate of the value of Clerical Life, and that to form a Table that would be perfectly reliable, the experience of Life Duration should be collected from classes resembling in social position and personal habits that particular class which it was proposed to deal with.

The Commissioners of Church Temporalities were furnished with a copy of this opinion, but they refused to make any alteration in the Table which they had originally sanctioned, and they afterwards refused even to leave the correctness of the Table to the arbitration of Actuaries.

The Representative Body then determined to obtain the advice of another Actuary, and they consulted Mr. Spragne, a gentleman of great experience, who also gave it as his opinion that they were entitled to a better Life Table.

The Representative Body themselves believed that by the terms of the Irish Church Act they were entitled to have the true value of Clerical Life estimated in the Table, and to have the 12 per cent. Bonns in addition. But they were advised that any attempt to enforce their view of the case against the Commissioners would be doubtful in result, and attended with serious delay and expense.

The Representative Body then had to consider whether the insufficiency of the Life Table was or was not so important as to be overbalanced by other sources of profit arising from Commutation. The result of their inquiries was a conviction that the gain from the Bonns will be greater than the loss from the insufficiency of the Table.

That this may be generally understood, they will state the result in the case of a life aged 50 years (which is an approximate average):—

The Commutation value of an Annuity of £100 a-year at the age of 50 would be according to the Commissioners' Table £1,329, and according to Dr. Farr's Table £1,452, but with 12 per cent. added to the former would be £1,488. (A Table is appended showing similar calculations for the different ages from 25 to 75 years.)

TABLE showing the NUMBER of YEARS' PURCHASE.

Ago.	Mr. FINLAISON, without the 12 per cent. Bonus.	Dr. FARR.	Mr. FINLAISON, with the 12 per cent. Bonus.
25	18.431	20.193	20.643
30	17.831	19.387	19.971
35	17.017	18.436	19.059
40	16.013	17.312	17.935
45	14.798	16.005	16.574
50	13.289	14.520	14.884
55	11.771	12.863	13.183
60	10.342	11.040	11.583
65	8.735	9.246	9.783
70	7.210	7.551	8.075
75	5.778	6.007	6.471

Thus it appears, that when the 12 per cent. is obtained, the sum received is in excess of the highest value set by any Actuary on the Annuity.

It was further ascertained from the Commissioners for the Reduction of the National Debt, that the Representative Body would have the option to re-convert any portion of the Commutation money into Government Annuities on the same Life Table as that used for Commutation.

It is not however the intention of the Representative Body to purchase Annuities in the names of the Commuting Clergymen. Any Annuities which may be purchased for their lives will be vested in the Representative Body. They will not be the separate property of the particular Clergymen for whose lives they may have been taken (and who will be regarded merely as the Nominees of the Representative Body), but will still be a part of the general fund upon which the entire Annuities of the whole Commuting Clergy will be secured. It will thus not add materially to the security of any individual Clergyman that his particular Annuity should be one of those selected for such conversion. But each individual will share in the benefit, if the whole fund shall be in this way made absolutely secure.

Further, it is not the immediate intention of the Representative Body to make an extensive purchase of Government Annuities in their own name. For in the first place, the purchase of these Annuities will be attended with a loss of about 4 per cent. on the Bonus; again, while it is important that Commutation should take place at once, the inverse process of purchasing Government Annuities may be performed at any time; and moreover, there are many beneficial financial operations with which such purchase might interfere. The Representative Body therefore propose to reserve this power, to be exercised whenever it is necessary to guard against a loss from the magnitude of the risk.

The Representative Body think that they were warranted in claiming a more favourable Table; but although they have not succeeded in obtaining such, they are satisfied that any disadvantage arising from the table which the Commissioners have selected will be more than compensated by—

The Bonus of 12 per cent.

The gain in the commutation of Glebe Houses.

The gain in the rate of interest.

The power of Composition.

The advantage to the Clergy of being able to obtain an Advance of Money on favourable terms under Table 3.

The advantage of having the Commutation Fund as a basis for Diocesan or Parochial arrangements.

III. RULES OF THE REPRESENTATIVE CHURCH BODY AS TO GLEBES (ADOPTED 18TH DECEMBER, 1872).

THE Representative Body of the Church of Ireland having finally arranged with the Commissioners of Church Temporalities the terms for purchase of the Ecclesiastical Residences, with such additional lands as, under Section 28 of the "Irish Church Act," they may be entitled to have vested in them, have reviewed the resolutions which at various times they have passed in reference to Glebe Houses and Lands, and after adapting them to the circumstances of the contract by which they are now bound, make the following Rules.

[N.B.--In the Rules, the word "Residence" shall mean and include the Glebe House, Garden, and Curtilage; the words "commutation value," the gross annual value set upon the particular property, whether residence or land, by the Commissioners of Church Temporalities, for the purpose of commutation; the words "additional lands," such portion of lands as, pursuant to the 28th Section of the "Irish Church Act," shall be vested in the Representative Body, along with the residences, by order of the said Commissioners; and the word "parish" shall include "parochial district," or other district for ecclesiastical purposes annexed to a Church.]

As to COMMUTING INCUMBENTS who were APPOINTED to their PRESENT BENEFICES before the passing of the "IRISH CHURCH ACT."

1. In the case of any Commuting Incumbent who was appointed to his present Benefice before the passing of the "Irish Church Act," he is to be charged for the Residence an annual sum equal to two-thirds of its commutation value, and for the "additional lands" (if any) an annual sum equal to the entire of their commutation value.

2. In the same case, the Representative Body undertake to repay the Incumbent all taxes which he shall pay in respect of the aforesaid premises, with the exception of Income-tax for occupation under Schedule B; provided that such taxes shall not exceed one-fourth of the commutation value, in which case the excess shall be paid by the tenant. The Representative Body will also make all landlord's repairs, that is, external repairs and repairs of a permanent character; they will paint the house externally so often as they shall consider necessary; and either keep the house insured in a proper sum, or become their own insurers to the same extent.

3. Where the Parish shall provide the entire purchase-money requisite to purchase the Residence and additional lands, or if no additional lands shall be vested along with the Residence, then to purchase the Residence, the Representative Body will, during the incumbency of an Incumbent appointed to his present Benefice before the passing of the "Irish Church Act," credit to the Parish the entire net profits arising from the rent or rents paid by such Incumbent, after deducting for repairs, insurance, and other outgoings, in such manner as the Select Vestry of the Parish may from time to time direct. A similar privilege will be granted to a Diocese, in case it shall provide the entire purchase-moneys requisite to pay for all the Residences and additional lands within the Diocese which shall be left unpurchased by the Parishes.

4. If the Parish shall not provide the whole purchase-moneys requisite to pay for both the Ecclesiastical Residence and additional lands, but either the Diocese or Parish shall contribute towards the purchase of both

a sum equal to ten years' purchase of the annual value of the Residence, as estimated by the general tenement valuation, the Representative Body, during such incumbency, as aforesaid, will credit the net profits from the rent for the Residence to the Diocese or Parish, as the case may be, according to the directions of the Diocesan Council or Select Vestry of the Parish.

5. Where the Parish shall contribute less than the amount required by Clauses 3 and 4, it shall receive from the net profit-rent or rents a credit according to the proportion which its contribution bears to the aggregate amount of the actual price of the lands, and of a sum equal to ten years' value of the Residence, as defined in Clause 4; but this benefit shall not extend to fractional parts of £50, and on the other side fractional parts of £50 will not be computed as part of the price, except in cases where the portion of the purchase-money unredeemed shall be less than £50. A similar principle shall apply in estimating the annual credit to be given to a Diocese which shall supply, not the whole, but a part of the purchase-moneys requisite to purchase all the Residences and additional lands within the Diocese which shall be left unpurchased by the Parishes.

AS to INCUMBENTS APPOINTED to their BENEFICES subsequent to the passing of the "IRISH CHURCH ACT."

6. In the case of an Incumbent appointed to a Benefice subsequent to the passing of the Church Act, where the entire of the purchase-money for both the Ecclesiastical Residence and additional lands, or if there shall be no additional lands vested along with the Residence, then for the Residence, is provided by the Parish, such Incumbent shall pay an annual sum for the Residence calculated to cover repairs and insurance, and shall pay no rent for the lands; but he shall be bound to pay all taxes and rates, including landlord's proportion of poor-rate and grand jury cess, payable in respect of the Residence and lands. The rate at present fixed for insurance and repairs is £15 per cent. per annum upon the commutation value of the Residence; but this rate being fixed upon an estimate made before the test of experience has been applied, the Representative Body reserve the power of varying it from time to time.

7. Where the entire of the purchase-money for both the Ecclesiastical Residence and additional lands, or if there shall be no additional lands vested along with the Residence, then for the Residence, shall be supplied out of the £500,000 given by the Church Act, in lieu of private endowments, in discharge of claims established against said fund, an Incumbent appointed since the Church Act shall hold upon the terms specified in Clause 6.

8. Where part of the purchase-money for both the Residence and additional lands, or if no additional lands shall be vested, for the Residence alone, shall be supplied from the £500,000 given by the Church Act in discharge of claims established against the said fund, and the remainder is supplied by the Parish, an Incumbent appointed since the Church Act shall hold upon the terms specified in Clause 6.

9. Where a Diocese shall supply the entire of the purchase-moneys requisite to purchase all the Residences and additional lands within the Diocese which shall be left unpurchased by the Parishes, the Incumbents of the Parishes in which the Residences and additional lands thus purchased by the Diocese are situate, shall hold the Residences and lands respectively upon the terms specified in Clause 6.

10. Wherever the Representative Body out of their own Funds, and not

in discharge of claims established against the £500,000 given by the Church Act in lieu of private endowments, shall supply the whole or part of the purchase-money requisite to buy the residence and additional lands, or either of them, they will, in the case of an Incumbent appointed since the passing of the Irish Church Act, require such an annual rent or rents to be reserved as shall provide for the Representative Body a clear return of £4 5s. per cent. per annum upon the capital sum advanced by them over and above all head-rents, rates, taxes, and other outgoings of every kind, including landlord's proportion of poor-rate and grand jury cess, together with £15 per cent. per annum on the commutation value of the house, or such other per-centage as the Representative Body may from time to time impose, to cover landlord's repairs and insurance.

11. So far as the rent or rents payable under Clause 10 is composed of interest on the capital advanced by the Representative Body, any Diocese or Parish may hereafter reduce same, by repaying the Representative Body the whole or part of its advance, such reduction to be calculated at the rate of £4 5s. per cent. per annum, for every £100 paid to the Representative Body.

12. If an Incumbent appointed to a Benefice subsequent to the passing of the Church Act shall move from a former Benefice, and that the residence and additional lands (if any) of such vacated Benefice are included in the life interest compensated by his annuity, such case shall, when it occurs, be considered upon its own merits, and the terms upon which such Incumbent shall hold the Residence and lands of the Benefice to which he has been appointed, be then arranged, anything hereinbefore expressed to the contrary notwithstanding.

AS TO ALL CASES OF PURCHASE OF RESIDENCES AND LANDS.

13. Where a Parish has substantiated a claim against Primate Boulter's Fund, the Select Vestry of the Parish may, with the assent of the Diocesan Council, direct that the money awarded by the Representative Body, in satisfaction of such claim, shall be applied in or towards the purchase of the Residence and additional lands (if any) of such Parish. In this case, during the incumbency of an Incumbent appointed before the Church Act, the Parish shall not receive any benefit from the investment; and the rent payable by such Incumbent to the Representative Body shall be the same as is defined in Clause 10; but after the death or other vacancy of such Incumbent, and in all cases during the incumbency of an Incumbent appointed subsequent to the Act, the Rules affecting a contribution of equal amount from the private resources of the Parish for the same purpose, shall be applicable to the money thus supplied. The same Rules shall apply to any other case in which a Glebe House and lands shall be purchased out of the £500,000 given in lieu of private endowments.

14. Where any Parish Clerk or Sexton has commuted, the Select Vestry of the Parish of such Clerk or Sexton may, with the assent of the Diocesan Council, direct that the portion of his commutation money retained by the Representative Body shall be applied towards purchasing the Residence or lands of such Parish; and in this case the Rules affecting a contribution of equal amount from the private resources of the Parish for the same purchase, shall be applicable to the money thus supplied.

15. Where a Glebe is subject to a rent, the Representative Body reserve power to vary and modify the foregoing Rules, and substitute such special agreement as may be suitable to the case.

16. Where the entire price of the Residence and additional lands, or if there shall be no additional lands vested in the Representative Body, then of the Residence, shall be provided by the Parish, and such Residence and lands being afterwards found unsuited to the circumstances of the Parish, shall be disposed of—in this case, the produce of the sale shall be expended in purchasing and maintaining a new and suitable Ecclesiastical Residence and lands for the Parish, if and when the same shall be required, and until then the income arising from the produce shall be applied otherwise for the benefit of the Parish.

17. Where the Select Vestry of a Parish, or any of the parishioners with assent of the Select Vestry, shall obtain a loan from the Board of Works, for the purchase or repair of a Glebe House, pursuant to the provisions of the Statutes 33 & 34 Vict., ch. 112, and 34 & 35 Vict., ch. 100, the Representative Body will facilitate the loan.*

IV. RULES for the MANAGEMENT of BURIAL GROUNDS, vested pursuant to 26th Section of "The Irish Church Act, 1869," in the REPRESENTATIVE CHURCH BODY (being a Statute enacted by the GENERAL SYNOD of the CHURCH of IRELAND in 1873).

WHEREAS by "The Irish Church Act, 1869," it is provided that where any church is in actual use at the time of the passing of said Act, and the Representative Church Body therein defined shall, at any time within six months after the First of January, 1871, apply to the Commissioners, stating that they require such church for religious purposes, or for the purpose of taking the same down, and erecting or enlarging another church or churches in lieu thereof, the Commissioners shall by order vest the church in the said Representative Body, subject to any life-estate or interest that is existing therein; and that when any church so vested in the said Representative Body has a burial-ground annexed or adjacent thereto, but not separated therefrom by any carriage highway, or that has been granted by a private donor to, or exclusively used by, the parishioners attending the said church, such burial-ground shall be included with the church in the order made by the Commissioners, subject to any life-estate or interest subsisting therein, and pass to the said Representative Body accordingly, but without prejudice to such rights of, or in respect of, burial as may be subsisting therein, or may be thereafter declared to subsist therein by Act of Parliament;

And whereas it is expedient that rules for the management of burial-grounds so vested, or which shall hereafter become vested, in the said Representative Body, and also respecting mural tablets and monuments, and burials in church-yards, and in vaults under churches, should be enacted by the General Synod of the Church of Ireland:

Be it therefore enacted that the following rules shall be in force from the passing of this Statute in respect of mural tablets, of monuments, of burials in church-yards, or in vaults under church-yards, and in respect of every burying-ground so vested in the said Representative Body, wherein there is not now subsisting any life-estate preserved by the said recited Act, and in respect of all others so vested, from and after the termination, by surrender or otherwise, of the life-estates subsisting in the same respectively.

* See instructions and statutes as to obtaining Glebe Loans, page 63.

1. The care of such burying-grounds is hereby entrusted to the Ministers and Churchwardens of the several churches to which the same are respectively annexed, but subject to the control of the said Representative Body; and in order to the protection of the same, the Minister and Churchwardens may prevent trespass, or other unlawful use of or interference with, the same, and act on behalf and in the name of the said Representative Body, in any proceedings requisite for the purpose. But all costs and expenses incurred by such proceedings shall be paid by the said Minister and Churchwardens to the said Representative Church Body, and, in case the Select Vestry shall have approved of such proceedings, shall be charged to the account of the parish.

2. In every case where there is a road or avenue specially appropriated by deed or otherwise to any such burying-ground, the care and protection of the same is hereby entrusted to the same parties as by this Act are charged with the conservancy of the burying-ground itself.

3. Where, by faculty or prescription, the members of a family have acquired a right to be buried in a particular place in any such burying-ground as aforesaid, such right shall, in conformity with the provisions in that behalf of the said recited Act, be acknowledged, and effect shall be given to the same by the Minister and Churchwardens charged with the care thereof.

4. When members of a family have been buried in a particular place, although it may have occurred not in the exercise of a right, the Minister and Churchwardens shall nevertheless guard against interfering with such use of such place, unless on grounds of imperative public convenience or necessity.

5. Except in cases where such right or user exists, the Minister and Churchwardens shall determine the place of sepulture.

6. No corpse shall be buried within 12 feet of the fabric of the church, except in a vault heretofore lawfully used for sepulture, and having its sole entrance from outside the walls, or in a vault or substantially built enclosure adjacent thereto, which at present exists.

7. No corpse shall be disinterred or removed, except on a warrant from the Coroner or other authorized officer, or by the authority of a faculty from the Bishop's Court.

8. The Select Vestry of the church to which the burying-ground is annexed shall appoint a grave-digger, who shall be entitled to such reasonable fee as the Select Vestry may appoint, for digging a grave; unless the same be otherwise provided for, with the consent of the Select Vestry.

9. The Minister and Churchwardens shall have power to permit headstones, flatstones, railings, and vaults to be erected and made; and shall be entitled to charge such fees for the erection of the same, and for burial in such vaults, and in those already made, and in graves, respectively, as the Select Vestry shall appoint, with the consent of the Diocesan Council; and provided that no inscriptions be allowed upon such erections, unless previously approved of by the Minister, with an appeal to the Ordinary.

10. The Select Vestry of each church shall fix a scale of fees for mural tablets; but in case of leave to erect monuments being applied for and given, pursuant to the Canon in that behalf, the Select Vestry shall fix on each occasion the fee to be charged for the permission.

11. All fees receivable under this Act, except the gravedigger's fees, shall be received by the Minister and Churchwardens, or such person as they shall authorize, and shall be expended in keeping the church and burying-ground in good order and repair, and any surplus shall be applied by the Select Vestry to such use as they may think fit, subject to the pro-

visions of the constitution of the Church of Ireland, chap. 1, sec. 76, and all such receipts and expenditure shall be accounted for by them to the said Representative Body.

12. In case of Cathedrals, not having Churchwardens, but having Cathedral Boards or Cathedral Select Vestries, such Cathedral Boards or Cathedral Select Vestries shall, as to such Cathedrals and the burial-grounds attached thereto, have and exercise all the same duties, powers, and authorities as are hereby assigned to Churchwardens; and for the purposes of this Statute the Deans, or, in their absence, the Sub-Deans, of such Cathedrals shall be considered to be the Ministers thereof.

13. Provided always that any person aggrieved by the refusal of the Ordinary, Minister, Churchwarden, or the Select Vestry, or otherwise, in the premises, shall have the right to appeal to the Diocesan Court, which Court shall have full authority to hear and determine such appeal; and an appeal from said Court shall in all cases lie to the Court of the General Synod, which shall have full authority to hear and determine the same.

14. Nothing in this Act contained shall be taken to interfere with any existing right.

SECTION 5.

GENERAL INSTRUCTIONS issued by The COMMISSIONERS of CHURCH TEMPORALITIES in IRELAND.

I. INSTRUCTIONS AS TO SALE OF PERPETUITIES.

(a.) CIRCULAR TO IMMEDIATE TENANTS OF CHURCH LANDS.

June 8th, 1870.

The attention of tenants of See lands, holding under leases for twenty-one years, customarily renewable, is directed to the terms on which they may now purchase a perpetual interest in such lands.*

It is impossible to state exactly to what extent the position of the tenant is improved under the new regulations, or what the average difference in the purchase-money of a perpetuity under the old and under the new regulations is; but it will be found, on investigation, that the conditions of sale will now be generally very much more favourable to the purchaser than they have hitherto been.

Every tenant, moreover, may now easily ascertain for himself the amount approximately which will be necessary to purchase a perpetuity in his own case.

For convenience of comparison, some examples of the calculation of the purchase-money of a perpetuity, under the old and new regulations respectively, are subjoined.

All holders of See lands are further reminded of the altered position in which they stand since the passing of the Irish Church Act. Tenants holding directly under an archbishop or bishop are now liable at any time to come under the provisions of the 3rd paragraph of the 12th section of the Act, a copy of which paragraph is appended† to this circular for their information.

Tenants holding under the Commissioners of Church Temporalities in Ireland only retain their right to purchase perpetuities till the 1st January, 1874, under the 31st section. After that date they will come under the provisions of the 5th paragraph of the 34th section. A copy of these clauses is also annexed.†

By Order of the Commissioners of Church Temporalities in Ireland,

DENIS GODLEY, Secretary.

* For General Order of the Commissioners, see *ante*, General Rules, No. II.

† For clauses referred to, see "The Irish Church Act, 1869."

EXAMPLES.

No. 1.—*Case of a Lease for Twenty-one years, held under the See of Clogher.*

FORMER MODE OF CALCULATION.

Gross annual value,	£386	10	1	
Deduct annual rent and fees, and fine and fees,		57	5	4
	£329	4	9	
Multiplied by 20 =	£6,584	15	0	} £6,321 7 2 value of fee.
minus 4 per cent. =				
Gross annual value,	£386	10	1	
Deduct annual rent and fees, .		7	5	4
	£379	4	9	
Multiplied by 12·821 = .			£4,862	3 11 {value of tenant's interest.

Purchase-money, based on former mode of calculation, £1,459 3 3

PRESENT MODE OF CALCULATION.

Gross annual value,	£386	10	1	
Deduct annual rent and fees, and fine and fees,		57	5	4
	£329	4	9	
Multiplied by 20 =	£6,584	15	0	} £6,321 7 2 value of fee.
minus 4 per cent. =				
Do. do. 17½ = .			£5,761	13 1 {value of tenant's interest.

Purchase-money, based on present mode of calculation, £559 14 1

No. 2.—*Case of a Lease for Twenty-one years, held under the See of Killala.*

FORMER MODE OF CALCULATION.

Gross annual value,	£554	0	0	
Deduct annual rent and fees, and fine and fees,		137	7	10
	£416	12	2	
Multiplied by 20 =	£8,332	3	4	} £7,998 17 7½ value of fee.
minus 4 per cent. =				
Gross annual value,	£554	0	0	
Deduct annual rent and fees, .		26	13	1
	£527	6	11	
Multiplied by 12·821 = .			£6,761	2 0½ {value of ten- ant's interest.

Purchase-money, based on former mode of calculation, £1,237 15 6

PRESENT MODE OF CALCULATION.

Gross annual value,	£554	0	0	
Deduct annual rent and fees, and fine and fees,		137	7	10
	£416	12	2	
Multiplied by 20 =	£8,332	3	4	} £7,998 17 7½ value of fee.
minus 4 per cent. =				
Do. do. 17½ = .			7,290	12 11 {value of ten- ant's interest.

Purchase-money, based on present mode of calculation, £708 4 8

No. 3.—*Case of a Lease for Twenty-one years, held under the See of Armagh.*

FORMER MODE OF CALCULATION.

Gross annual value,	£2,564	11	6	
Deduct annual rent and fees, and fine and fees,	308	7	0	
	£2,256	4	6	
Multiplied by 20 =	£45,124	10	0	} £43,319 10 5 value of fee.
minus 4 per cent. =	.	.	.	
Gross annual value,	£2,564	11	6	
Deduct annual rent and fees,	79	14	3	
	£2,484	17	3	
Multiplied by 12·821 =	.	.	.	{ value of tenant's interest.
	£31,858	8	4	

Purchase-money, based on former mode of calculation, £11,461 2 1

PRESENT MODE OF CALCULATION.

Gross annual value,	£2,564	11	6	
Deduct annual rent and fees, and fine and fees,	308	7	0	
	£2,256	4	6	
Multiplied by 20 =	£45,124	10	0	} £43,319 10 5 value of fee,
minus 4 per cent. =	.	.	.	
Do.	do.	17½ =	.	{ value of tenant's interest.
			£39,483	

Purchase-money, based on present mode of calculation, £3,835 11 8

No. 4.—*Case of a Lease for Twenty-one years, held under the See of Ardagh.*

FORMER MODE OF CALCULATION.

Gross annual value,	£258	13	6	
Deduct annual rent and fees, and fine and fees,	63	10	2½	
	£195	3	3½	
Multiplied by 20 =	£3,903	5	10	} £3,747 3 2½ value of fee.
minus 4 per cent. =	.	.	.	
Gross annual value,	£258	13	6	
Deduct annual rent and fees,	11	12	7½	
	£247	0	10½	
Multiplied by 12·821 =	.	.	.	{ value of tenant's interest.
	£3,167	7	0½	

Purchase-money, based on former mode of calculation, £579 16 2

PRESENT MODE OF CALCULATION.

Gross annual value,	£258	13	6	
Deduct annual rent and fees, and fine and fees,	63	10	2½	
	£195	3	3½	
Multiplied by 20 =	£3,903	5	10	} £3,747 3 2½ value of fee.
minus 4 per cent. =	.	.	.	
Do.	do.	17½ =	.	{ value of tenant's interest.
			£3,415	

Purchase-money, based on present mode of calculation, £331 15 7

No. 5.—*Case of a Lease for Twenty-one years, held under the See of Tuam.*

FORMER MODE OF CALCULATION.

Gross annual value,	£127 12 0	
Deduct annual rent and fees, and fine and fees,	9 16 8	
	<hr/>	
	£117 15 4	
Multiplied by 20 = £2,355 6 8		} £2,261 2 5 value of fee.
minus 4 per cent. =		
Gross annual value,	£127 12 0	
Deduct annual rent and fees,	9 16 8	
	<hr/>	
	£122 14 1	
Multiplied by 12·821 =	£1,573 3 9	{ value of ten- ant's interest.

Purchase-money, based on former mode of calculation. £687 18 8

PRESENT MODE OF CALCULATION.

Gross annual value,	£127 12 0	
Deduct annual rent and fees, and fine and fees,	9 16 8	
	<hr/>	
	£117 15 4	
Multiplied by 20 = £2,355 6 8		} £2,261 2 5 value of fee.
minus 4 per cent. =		
Do. do. 17½ =	2,060 18 4	{ value of ten- ant's interest.

Purchase money, based on present mode of calculation, £200 4 1

No. 6.—*Case of a Lease for Twenty-one years, held under the See of Meath.*

FORMER MODE OF CALCULATION.

Gross annual value,	£748 14 0	
Deduct annual rent and fees, and fine and fees,	115 0 3	
	<hr/>	
	£633 13 9	
Multiplied by 20 = £12,673 15 0		} £12,166 16 0 value of fee.
minus 4 per cent. =		
Gross annual value,	£748 14 0	
Deduct annual rent and fees,	50 8 0	
	<hr/>	
	£698 6 0	
Multiplied by 12·821 =	£8,952 18 1	{ value of ten- ant's interest.

Purchase-money, based on former mode of calculation, £3,213 17 11

PRESENT MODE OF CALCULATION.

Gross annual value,	£748 14 0	
Deduct annual rent and fees, and fine and fees,	115 0 3	
	<hr/>	
	£633 13 9	
Multiplied by 20 = £12,673 15 0		} £12,166 16 0 value of fee.
minus 4 per cent. =		
Do. do. 17½ =	£11,089 10 7	{ value of ten- ant's interest.

Purchase-money, based on present mode of calculation, £1,077 5 5

(b.) CIRCULAR to TENANTS of CHURCH LANDS HOLDING by LEASES CUSTOMARILY RENEWABLE, and SUB-TENANTS with *toties quoties* COVENANTS.

The Commissioners desire to call the attention of tenants holding from them by leases customarily renewable, and of sub-tenants with *toties quoties* covenants, to the position in which they now stand with respect to the purchase of a perpetuity in their lands.

The period limited by "The Irish Church Act, 1869," for making application for the purchase of a perpetuity will expire on the 1st January, 1874. After that day the Commissioners cannot entertain any such application, but will be bound to sell the fee-simple of the lands, subject to the lease, for the highest price they can obtain.

The Commissioners have in a former Circular, issued in June, 1870 (a copy of which accompanies this), explained the very favourable terms upon which a perpetuity can now be obtained.

As the rights and interests of sub-tenants* can only be effectually protected and secured by the obtaining of a perpetuity, and as, in some cases, the immediate tenant instead of applying for a perpetuity only sought a renewal from the Commissioners, they, in exercise of the power vested in them by "The Irish Church Act, 1869," sec. 12, par. 3, of fixing once and for ever the rent and fine, fixed it at such an amount as to render it the interest of the immediate tenant to apply for a perpetuity rather than a renewal, thus, as far as possible, protecting the rights of sub-tenants.†

The Commissioners now desire to inform the tenants and sub-tenants of church lands, especially those holding under the sees of Armagh, Dublin, Down, Derry, Meath, Cloyne, and Kilmore, that the interests respectively of the archbishops and bishops in the sees of Armagh, Dublin, Derry, Down, and Kilmore, have already ceased and determined, and those of the bishops of Meath and Cloyne respectively will very shortly cease, the commutations in these sees being nearly completed.

The special attention of sub-tenants holding by leases with *toties quoties* covenants‡ is called to their rights and powers. They are empowered by the 4th and 5th William IV., cap. 90, to give notice to the Commissioners and the superior tenant of their intention to purchase the perpetuity in default of the superior tenant doing so within twelve months from the date of such notice; and by "The Irish Church Act, 1869," the time for giving such notice is limited to three years from the 1st January, 1871.

It is therefore obvious that sub-tenants should lose no time in giving notice under the Act, with the view of stimulating the superior tenant to purchase, and in default, of purchasing themselves direct from the Commissioners.

By Order of the Commissioners of Church Temporalities in Ireland,

DENIS GODLEY, Secretary.

24, Upper Merrion-street, Dublin,
1st January, 1872.

* See 3 and 4 Wm. IV., cap. 37, sec. 149, on next page.

† See the decision *In re John Leslie*, reported in "Decisions under the Irish Church Act, 1869," by W. L. Bernard, 2nd ed., page 4.

‡ See 4 and 5 Wm. IV., cap. 90, sec. 30, on next page.

SECTIONS REFERRED TO IN THE FOREGOING CIRCULAR.

3 & 4 William IV., cap. 37, sec. 149.

And be it further enacted, that whenever any such tenant or lessee who shall have purchased and acquired as aforesaid the fee-simple and inheritance of and in such lands and premises previously held by him as immediate and superior tenant under such archbishop or bishop or other ecclesiastical person, or the said Commissioners appointed under this Act, shall, by virtue of any lease, covenant, or contract theretofore made or entered into, be bound to renew to any other person or persons any lease of any such lands and premises, either as often as such archbishop or bishop or other ecclesiastical person respectively shall renew the lease of such lands and premises to him such immediate superior tenant, or in any other manner, then and in every such case the conveyance of the fee-simple as aforesaid of and in the said lands and premises as aforesaid to such immediate and superior tenant (or the payment from time to time of the annual rent out of the said lands and premises to the said archbishop or bishop or other ecclesiastical person, or to the said Commissioners respectively) shall (so long as the said estate or interest thereby granted shall continue) in all courts of law and equity, and to all intents and purposes whatsoever, as to such under tenant or inferior tenant, or person or persons having any such derivative estate or interest, and being entitled to the benefit of such covenant or contract for renewal, and as to all other derivative estates or interests in the said lands and premises dependent upon such covenant, contract, or agreement for renewal, be and be deemed, taken and construed to be a renewal by such archbishop, or bishop, or other ecclesiastical person, or otherwise, from time to time, of the lease of such immediate and superior tenant, for the purposes of and within the true intent and meaning of such covenant, contract, or agreement for renewal as aforesaid.

4 & 5 William IV., cap. 90, sec. 30.

And whereas, in many cases the lands, tenements, and hereditaments held under leases from archbishops, bishops, or other ecclesiastical corporations sole in Ireland have been sub-let to under-tenants who are entitled under covenants or contracts to the renewal of their leases from time to time as often as the first or immediate tenants thereof shall obtain renewals of their leases from any such archbishop, bishop, or other ecclesiastical corporation sole, and by reason of the small interest of the first or immediate tenants in such lands, tenements, and hereditaments, or for other reasons, they may not be desirous to purchase the fee-simple and inheritance therein, and it is expedient that in such cases the under-tenants thereof should be authorized to purchase the same, subject to the provisions and regulations hereinafter contained; be it therefore enacted, that it shall and may be lawful to and for any under-tenant, having any derivative estate or interest in any such lands, tenements, and hereditaments by virtue of any lease containing any such covenant or contract for the renewal thereof as aforesaid, either mediately or immediately through or under the first or immediate tenant thereof, to apply (in the manner prescribed by the said Act in reference to first or immediate tenants) for the purchase of the fee-simple and inheritance of and in the lands, tenements, and hereditaments held by such under-tenant under any such lease, giving notice, nevertheless, in writing of such application to the first or immediate tenant of such lands, tenements, and hereditaments, and to all other tenants thereof (if any) intervening between such archbishop, bishop, or other ecclesiastical corporation sole and the under-tenant making such application, or to the known agent or receiver, agents or receivers of such first and other intervening tenants; and upon the receipt of such notice, or at any time within twelve calendar months thereafter, it shall be lawful as well for such first or intermediate as for any other of such intervening tenants to apply in like manner for the purchase of the fee-simple and inheritance of and in the same lands, tenements and hereditaments, and the first or immediate tenant of such lands, tenements, and hereditaments is hereby empowered to contract or agree for the purchase thereof accordingly, in the manner provided by the said Act, or as near thereto as circumstances will admit, notwithstanding such lands, tenements, and hereditaments shall not constitute the whole of the lands, tenements and hereditaments held by him under any lease from any such archbishop, bishop, or other ecclesiastical corporation sole; and in case such first or immediate tenant shall neglect or omit to make application in manner by the said Act directed for the purchase of the fee-simple and inheritance of and in such lands, tenements, and hereditaments for the space of twelve calendar months after such notice in writing shall have been given to him, or to his known agent or receiver, it shall be lawful for the said Commissioners to treat, contract, or agree with such under-tenant who may have given such notice as aforesaid, or with any intervening tenant who may have made application within the said period of twelve months for the absolute purchase by him of the fee-simple and inheritance of and in the same lands, tenements, and hereditaments, upon such and the same terms and in the same manner as in the said Act is prescribed for the purchase of perpetuities by any first or immediate tenant, but subject nevertheless (in addition to the rent thereby directed to be reserved and

made payable to the archbishop, bishop, or other ecclesiastical corporation sole, under whom the same are immediately held) to a perpetual rentcharge, or as many perpetual rentscharge as there are tenants intervening between such archbishop, bishop, or other ecclesiastical corporation sole, and the under-tenant entering into such contract for purchase, such rentcharge or rentscharge to be ascertained in manner hereinafter-mentioned, and to be issuing out of the same lands, tenements and hereditaments, and to be reserved and made payable to such intervening tenant or tenants, his or their heirs and assigns for ever: Provided always, that in case more than one of such under-tenants shall make application for such purchase, the application of the under-tenant holding directly under such first or immediate tenant shall be preferred to that of the one next below, and so on according to priority of holding down to the under-tenant so giving notice as aforesaid; and the said Commissioners shall convey the said lands, tenements, and hereditaments so contracted to be purchased to the purchaser thereof accordingly in the manner and under the regulations by the said Act provided in relation to the purchases thereby authorized to be made, subject nevertheless to the additional perpetual rentcharge or rentscharge hereinbefore mentioned; and immediately upon the execution of such conveyance the reversion or respective reversions then vested in such intervening tenant or tenants shall, so far only as respects such lands, tenements, and hereditaments, be absolutely merged and extinguished in the freehold and inheritance thereby conveyed to such purchaser, and the said perpetual rentcharge or rentscharge, and the estate or interest therein, shall be considered as a substitute or substitutes for the rent and reversion so merged and extinguished as aforesaid.

II.—INSTRUCTIONS to OWNERS of LAND desirous of PURCHASING their TITHE RENT-CHARGE, under 7th Section of "The Irish Church Act, 1869, Amendment Act, 1872," Tables, &c.

(a.) CIRCULAR ISSUED IN 1873.

The Commissioners of Church Temporalities in Ireland desire to call the attention of payers of tithe rent-charge, who do not wish to purchase for cash, to the advantages given to them by "The Irish Church Act" for extinguishing their Rent-charge by the Loan System—

- 1st.—A perpetual charge is converted into one of almost the same amount, terminable in fifty-two years.
- 2nd.—The charge is payable annually, instead of half-yearly.
- 3rd.—There is not any expense attending the change, which can be effected simply, by returning the accompanying form, when filled up.
- 4th.—The annual adjustment of poor-rate is avoided, an average rate being deducted in fixing the annual payment.

By order,

DENIS GODLEY, Secretary.

24, Upper Merrion-street,
Dublin, 1st December, 1873.

[N.B.—Under the 10th section of the above statute payers are now relieved from the payment of stamp duty on merging orders.]

(b.) CIRCULAR ISSUED IN 1875.

Tithe rent-charge may be merged in the land out of which it issued, and be extinguished by any of the three following modes, viz.:—

- I. By payment, in one sum, of $22\frac{1}{2}$ times the amount of the annual rent-charge, less such sum in the pound as the owner shall be ascertained by the Commissioners to have been on an average of five years preceding

the passing of "The Irish Church Act, 1869," entitled to deduct for poor-rates.

e.g.—If the rent-charge be £100, and the average poor-rate 1s. in the pound, by paying down £2,137 10s. the charge is extinguished.

The proportionate part of rent-charge accruing from the last gale day to date of lodgment of purchase money must also be paid, together with all arrears due to the Commissioners.

II. On the principle of a loan, repayable by annual instalments extending over fifty-two years.

The amount of annual rent-charge (less such sum in the pound as the owner shall be ascertained by the Commissioners to have been on an average of five years preceding the passing of "The Irish Church Act, 1869," entitled to deduct for poor rates from the tithe rent-charge payable by him) is to be multiplied by $22\frac{1}{2}$, and then £4 9s. per cent. calculated on the product, gives the annual instalment, which, paid for fifty-two years, will extinguish the rent-charge.

e.g.—If the rent-charge be £100, and the average poor rate be 1s. in the pound, the annual instalment will be £95 2s. 4d.

III. On the principle of loan for a less number of years "at an equivalent annual sum," viz., for 10, 20, 30, or 40 years.

e.g.—If rent-charge and average poor rate be as in the last case, then

Ten	years' annual instalments will be each	£272	3s.	2d.
Twenty	"	"	£159	5s. 2d.
Thirty	"	"	£123	1s. 4d.
Forty	"	"	£105	19s. 10d.

Income tax is deductible from annual instalments under modes 2 and 3, as provided by 11th section of "The Irish Church Act, 1869, Amendment Act, 1872."

In the case of applications on systems 2 and 3, the gale days for the annual instalments must be either 1st May or 1st November.

The Commissioners will not declare the amount of an annual instalment under modes 2 and 3 until the tithe rent-charge is paid to the gale day previous to the date of the receipt at their office of the proposal.

Forms applicable to any of these systems of merging tithe rent-charge can be had on application.

Merging Orders are prepared free of all expense to the payer, and those under modes 2 and 3 will be placed in the Record Department of the Commissioners' Office. Certified copies can be procured on payment of a fee of 1s. each, if desired.

In the case of annual instalments ascertained as aforesaid, the outstanding instalments can be redeemed at any time on payment of the actuarial value thereof.

By order,

DENIS GODLEY, Secretary.

Office of the Commissioners of
Church Temporalities in Ireland,
24, Upper Merrion-street, Dublin, 1875.

NOTE.—The following tables (which were prepared for the use of the Commissioners by W. J. Hancock, Esq., F.I.A.) show the purchase money of any amount of tithe rent-charge under Mode No. 1, the amount to be added to the net amount of tithe rent-charge to convert the same into an annual instalment under Mode 2, and the estimated value of outstanding instalments ascertained under last mentioned Mode.

PURCHASE OF TITHE RENT-CHARGE (Mode 1).

TABLE showing the amount of 22½ Years' Purchase of Annual Tithe Rent-charge.

Tithe Rent- charge.	22½ Times Tithe Rent- charge.	Tithe Rent- charge.	22½ Times Tithe Rent- charge.	Tithe Rent- charge.	22½ Times Tithe Rent- charge.	Tithe Rent- charge.	22½ Times Tithe Rent- charge.
Pence.	£ s. d.	£	£ s.	£	£ s.	£	£ s.
1	1 10	1	22 10	38	855 0	75	1,687 10
2	3 9	2	45 0	39	877 10	76	1,710 0
3	5 7	3	67 10	40	900 0	77	1,732 10
4	7 6	4	90 0	41	922 10	78	1,755 0
5	9 4	5	112 10	42	945 0	79	1,777 10
6	11 3	6	135 0	43	967 10	80	1,800 0
7	13 1	7	157 10	44	990 0	81	1,822 10
8	15 0	8	180 0	45	1,012 10	82	1,845 0
9	16 10	9	202 10	46	1,035 0	83	1,867 10
10	18 9	10	225 0	47	1,057 10	84	1,890 0
11	1 0 7	11	247 10	48	1,080 0	85	1,912 10
Shillings.		12	270 0	49	1,102 10	86	1,935 0
	1 2 6	13	292 10	50	1,125 0	87	1,957 10
	2 5 0	14	315 0	51	1,147 10	88	1,980 0
	3 7 6	15	337 10	52	1,170 0	89	2,002 10
	4 10 0	16	360 0	53	1,192 10	90	2,025 0
	5 12 6	17	382 10	54	1,215 0	91	2,047 10
	6 15 0	18	405 0	55	1,237 10	92	2,070 0
	7 17 6	19	427 10	56	1,260 0	93	2,092 10
	9 0 0	20	450 0	57	1,282 10	94	2,115 0
	10 2 6	21	472 10	58	1,305 0	95	2,137 10
	11 5 0	22	495 0	59	1,327 10	96	2,160 0
	12 7 6	23	517 10	60	1,350 0	97	2,182 10
	13 10 0	24	540 0	61	1,372 10	98	2,205 0
	14 12 6	25	562 10	62	1,395 0	99	2,227 10
	15 15 0	26	585 0	63	1,417 10	100	2,250 0
	16 17 6	27	607 10	64	1,440 0	200	4,500 0
	18 0 0	28	630 0	65	1,462 10	300	6,750 0
	19 2 6	29	652 10	66	1,485 0	400	9,000 0
	20 5 0	30	675 0	67	1,507 10	500	11,250 0
	21 7 6	31	697 10	68	1,530 0	600	13,500 0
		32	720 0	69	1,552 10	700	15,750 0
		33	742 10	70	1,575 0	800	18,000 0
		34	765 0	71	1,597 10	900	20,250 0
		35	787 10	72	1,620 0	1,000	22,500 0
		36	810 0	73	1,642 10		
		37	832 10	74	1,665 0		

PURCHASE OF TITHE RENT-CHARGE (Mode 2).

TABLE showing amount to be added to Tithe Rent-charge to convert it into Instalments extending over 52 years.

When Net Rent-charge amounts to	Add (See example.)	When Net Rent-charge amounts to	Add	When Net Rent-charge amounts to	Add
£ s. d.	s. d.	£ s. d.	s. d.	£ s. d.	s. d.
3 6 8	0 1	103 6 8	2 7	203 6 8	5 1
6 13 4	0 2	106 13 4	2 8	206 13 4	5 2
10 0 0	0 3	110 0 0	2 9	210 0 0	5 3
13 6 8	0 4	113 6 8	2 10	213 6 8	5 4
18 13 4	0 5	116 13 4	2 11	216 13 4	5 5
20 0 0	0 6	120 0 0	3 0	220 0 0	5 6
23 6 8	0 7	123 6 8	3 1	223 6 8	5 7
26 13 4	0 8	126 13 4	3 2	226 13 4	5 8
30 0 0	0 9	130 0 0	3 3	230 0 0	5 9
33 8 8	0 10	133 6 8	3 4	233 6 8	5 10
36 13 4	0 11	136 13 4	3 5	236 13 4	5 11
40 0 0	1 0	140 0 0	3 6	240 0 0	6 0
43 6 8	1 1	143 6 8	3 7	243 6 8	6 1
46 13 4	1 2	146 13 4	3 8	246 13 4	6 2
50 0 0	1 3	150 0 0	3 9	250 0 0	6 3
53 6 8	1 4	153 6 8	3 10	253 6 8	6 4
56 13 4	1 5	156 13 4	3 11	256 13 4	6 5
60 0 0	1 6	160 0 0	4 0	260 0 0	6 6
63 8 8	1 7	163 6 8	4 1	263 6 8	6 7
66 13 4	1 8	166 13 4	4 2	266 13 4	6 8
70 0 0	1 9	170 0 0	4 3	270 0 0	6 9
73 6 8	1 10	173 6 8	4 4	273 6 8	6 10
76 13 4	1 11	176 13 4	4 5	276 13 4	6 11
80 0 0	2 0	180 0 0	4 6	280 0 0	7 0
83 6 8	2 1	183 6 8	4 7	283 6 8	7 1
86 13 4	2 2	186 13 4	4 8	286 13 4	7 2
90 0 0	2 3	190 0 0	4 9	290 0 0	7 3
93 6 8	2 4	193 6 8	4 10	293 6 8	7 4
96 13 4	2 5	196 13 4	4 11	296 13 4	7 5
100 0 0	2 6	200 0 0	5 0	300 0 0	7 6

EXAMPLE.—Suppose the net rent-charge to amount to £3 6s. 8d., add one penny, and the annual instalment of £3 6s. 9d. will be ascertained, which, paid for fifty-two years, will extinguish the rent-charge. The same amount (one penny) to be added to any amount of net rent-charge under £6 13s. 4d.

N.B.—Fractional parts of a pound, of rent-charge, are not liable to poor-rates.

REDEMPTION OF ANNUAL INSTALMENTS OF TITHE RENT-CHARGE (Mode 2).

TABLE showing the amount for which Outstanding Instalments of Loan for fifty-two years, contracted for purchasing Tithe Rent-charge, can be redeemed.

Number of Instalments Outstanding.	Year's Purchase of Instalments.	Present Value of Instalments of £10.	Number of Instalments Outstanding.	Year's Purchase of Instalments.	Present Value of Instalments of £10.
		£ s. d.			£ s. d.
51	22·3141	223 2 10	45	21·2439	212 8 9
50	22·1507	221 10 2	44	21·0432	210 8 8
49	21·9817	219 16 4	43	20·8353	208 7 1
48	21·8066	218 1 4	42	20·6202	206 4 1
47	21·6255	216 5 1	41	20·3975	203 19 6
46	21·4380	214 7 7	40	20·1671	201 13 5

N.B.—In estimating the present value of outstanding instalments, the value of the instalment which is accruing due (and which must be paid in full) should not be taken into account.

III.—INSTRUCTIONS AS TO SALE OF PERPETUITY RENTS.

(a.) CIRCULAR ISSUED IN 1874.

INSTRUCTIONS TO OWNERS SERVED WITH NOTICE UNDER THE 34TH SECTION (1, 2,) OF THE IRISH CHURCH ACT, 1869.

In the event of the owner accepting the offer of the Commissioners of Church Temporalities, he should fill up, sign, and return to the Secretary the enclosed "Reply."*

No abatement can be made in the terms of purchase as notified. If the owner does not avail himself of the proposal made to him within three months after the date thereof, the Commissioners will proceed to offer the property in question for sale to the public in such manner as they may think fit.

All communications must be in writing, and personal applications cannot be attended to.

Remittances of money must be made to the Bank of Ireland by receivable orders issued from this office, which will be forwarded when the owner's reply has been approved. Neither cash nor remittances can be received at the Commissioners' office.

The amount secured by simple mortgage must be an *even* sum, without shillings and pence. The Commissioners in this case will favourably consider applications on the part of mortgagors to pay off from time to time reasonable portions of the money secured. In every case where a mortgage is given the perpetuity rent must be paid to a gale day fixed by the Commissioners. When the purchase money is paid in cash the perpetuity rent must be paid to the day of lodgment.

Attention is directed to the following copy of the 52nd section of "The Irish Church Act, 1869":—

"Where the Commissioners sell any land or interest in land in pursuance of this Act, the Commissioners may credit the purchaser with such part of the purchase-money, not exceeding three-fourth parts, as they think proper, on having payment of the same, with interest at the rate of four per centum per annum, secured to the satisfaction of the Commissioners; and any such purchase-money may be made payable by half-yearly instalments, not exceeding sixty-four in number."

NOTE.—It will be observed from this that one-fourth of the purchase-money at the least must be paid *in cash*, and the balance may be secured by mortgage. This mortgage may either be a simple mortgage for the

* See Schedule of Forms No. 47.

amount at four per cent., with no time fixed for payment, or it may be a mortgage under which the whole principal and interest would be repaid by half-yearly instalments, *not exceeding sixty-four, the Commissioners having the power of fixing, if they think proper, a less number, and accordingly the Commissioners have ordered the half-yearly instalments to be either 10, 30, or 64, with the following exceptions, i.e.,*

If the purchase-money does not exceed £100, the full amount must be paid in cash.

If it exceeds £100 and does not exceed £200, at least one-half must be paid in cash, and the balance must be secured by *simple mortgage*.

If it exceeds £200, the tenant can select any of the modes of purchase indicated.

Attention is also directed to the 34th sec. (7) of which the following is a copy:—

"An owner shall be deemed to have declined to accept the offer of the Commissioners if he do not accept the same in writing, and pay or secure the purchase-money to the Commissioners within three months after the giving of such notice as aforesaid."

NOTE.—From this it will be seen that even where the offer of the Commissioners is accepted in writing, unless either the whole of the purchase-money is paid in cash, or one-fourth at the least is paid in cash and the remainder secured by mortgage *within three months from date of the notice*, the offer will be regarded as declined.

EXAMPLES FOR THE GUIDANCE OF PURCHASERS, ASSUMING THE PURCHASE-MONEY TO BE £400.

1. In the case of a simple mortgage at £4 per cent. :—
A cash payment of £100, and a simple mortgage for £300 bearing interest at four per cent.
2. In the case of a mortgage paying off principal and interest in sixty-four half-yearly instalments :—
A cash payment of £103 13s., and sixty-four half-yearly instalments of £8 5s.
3. In the case of a mortgage paying off principal and interest in any less number than sixty-four half-yearly instalments :—
A cash payment of £103 11s. 6d., and ten half-yearly instalments of £33 each.
A cash payment of £103 4s. 11d., and thirty half-yearly instalments of £13 5s. each.

Copy of Sec. 34 of "The Irish Church Act, 1869," Paragraph 2.

"Perpetuity rents shall be offered to the owner of the land out of which they issue at a capital sum equal to twenty-five times the annual amount of such rents."

NOTE.—It will be observed from this that no reduction whatever in the price can be made.

(b.) CIRCULAR ISSUED IN 1875.

24, Upper Merrion-street, Dublin,
June, 1875.

Many owners of lands charged with perpetuity rents having declined to redeem the rents on the terms fixed in the 34th section of "The Irish Church Act, 1869," viz., for a capital sum equal to twenty-five times their annual amount, the Commissioners, before dealing further with the property, wish to call the attention of owners to the very favourable nature of these terms, if in connexion with them advantage is taken of

the provisions of the 52nd section, which permit the Commissioners to accept one-fourth only of the purchase-money in cash, the balance of three-fourths with interest thereon being made payable in sixty-four half-yearly instalments.

The Commissioners apprehend that owners have not generally perceived that these half-yearly instalments will only exceed by a very trifling sum the present half-yearly rents, and that therefore practically the perpetuity rents can be extinguished in thirty-two years by a present cash payment of about six and one-quarter times their annual amount; the subsequent instalments payable which would in a limited period clear off the whole charge being about equal to the present rents.

Some examples are subjoined in order to make the matter perfectly clear:—

A Perpetuity Rent of	Can be extinguished by a present Cash Payment of	And Sixty-four Half-yearly Instalments of	A Perpetuity Rent of	Can be extinguished by a present Cash Payment of	And Sixty-four Half-yearly Instalments of
£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
10 0 0	70 7 10	5 0 0	45 0 0	289 16 7	23 5 0
15 0 0	96 12 2	7 15 0	50 0 0	316 0 11	26 0 0
20 0 0	131 16 2	10 5 0	60 0 0	377 9 2	31 5 0
25 0 0	158 0 5	13 0 0	70 0 0	438 17 5	36 10 0
30 0 0	193 4 5	15 10 0	80 0 0	500 5 8	41 15 0
35 0 0	219 8 9	18 5 0	90 0 0	570 13 6	46 15 0
40 0 0	254 12 8	20 15 0	100 0 0	632 1 9	52 0 0

Any owner who is in doubt as to the amount of the half-yearly instalment payable by him in the event of his deciding to redeem his rent by a cash payment of about six and one-quarter times its annual amount, and spreading the repayment of the balance over thirty-two years, may obtain the requisite information by an application in writing to me.

DENIS GODLEY, Secretary.

IV.—INSTRUCTIONS AS TO SALES OF YEARLY AND OTHER TENURES. INSTRUCTIONS TO TENANTS OR LESSEES SERVED WITH NOTICE UNDER THE 34TH SECTION OF THE IRISH CHURCH ACT, 1869.

In the event of the tenant or lessee accepting the offer of the Commissioners of Church Temporalities, he should fill up, sign, and return to the Secretary the enclosed "reply."*

No abatement can be made in the terms of purchase as notified. If the tenant does not avail himself of the proposal made to him within three months after the date thereof, the Commissioners will not treat privately with any other person, but will proceed to offer the property in question for sale to the public.

All communications must be in writing, and personal applications cannot be attended to.

Remittances of money must be made to the Bank of Ireland by receivable orders issued from this office, which will be forwarded when the tenant's reply has been approved. Neither cash nor remittances can be received at the Commissioners' office.

The amount secured by simple mortgage must be an *even* sum, without shillings and pence. The Commissioners in this case will favourably consider applications on the part of mortgagors to pay off from time to time reasonable portions of the money secured.

All rent must be paid, in the case of a *simple* mortgage, or in the case

* See Schedule of Forms No. 47.

of a mortgage payable by instalments, to a gale day fixed by the Commissioners. When the purchase-money is paid in full the rent must be paid to the day of lodgment.

Attention is directed to the following copy of the 52nd section of "The Irish Church Act, 1869":—

"Where the Commissioners sell any land or interest in land in pursuance of this Act, the Commissioners may credit the purchaser with such part of the purchase-money, not exceeding three-fourth parts, as they think proper, on having payment of the same, with interest at the rate of four per centum per annum, secured to the satisfaction of the Commissioners; and any such purchase-money may be made payable by half-yearly instalments, not exceeding sixty-four in number."

NOTE.—It will be observed from this that one-fourth of the purchase-money at the least must be paid *in cash*, and the balance may be secured by mortgage. This mortgage may either be a simple mortgage for the amount at four per cent., with no time fixed for payment, or it may be a mortgage under which the whole principal and interest would be repaid by half-yearly instalments, *not exceeding sixty-four, the Commissioners having the power of fixing, if they think proper, a less number*, and accordingly the Commissioners have ordered the half-yearly instalments to be either 10, 20, 30, 40, 50, or 64, with the following exceptions, *i.e.*,

If the purchase-money does not exceed £50, the full amount must be paid in cash.

If it exceeds £50 and does not exceed £100, at least one-half must be paid in cash, and the balance must be secured *by simple mortgage*.

If it exceeds £100, and does not exceed £200, at least one-fourth must be paid in cash, and the balance (if not secured by simple mortgage) must be paid off in ten or twenty half-yearly instalments.

If it exceeds £200, the tenant can select any of the modes of purchase indicated.

Attention is also directed to the 34th sec. (7), of which the following is a copy:—

"An owner shall be deemed to have declined to accept the offer of the Commissioners if he do not accept the same in writing, and pay or secure the purchase-money to the Commissioners within three months after the giving of such notice as aforesaid."

NOTE.—From this it will be seen that even where the offer of the Commissioners is accepted in writing, unless either the whole of the purchase-money is paid in cash, or one-fourth at the least is paid in cash, and the remainder secured by mortgage *within three months from date of the notice*, the offer will be regarded as declined.

EXAMPLES FOR THE GUIDANCE OF PURCHASERS, ASSUMING THE PURCHASE-MONEY TO BE £400.

1. In the case of a simple mortgage at £4 per cent:—
A cash payment of £100, and a simple mortgage for £300 bearing interest at four per cent.
2. In the case of a mortgage paying off principal and interest in sixty-four half-yearly instalments:—
A cash payment of £103 13s., and sixty-four half-yearly instalments of £8 5s.
3. In the case of a mortgage paying off principal and interest in any less number than sixty-four half-yearly instalments:—
A cash payment of £103 11s. 6d., and ten half-yearly instalments of £33 each.
A cash payment of £105 13s. 6d., and twenty half-yearly instalments of £18 each.

A cash payment of £103 4s. 11d., and thirty half-yearly instalments of £13 5s. each.

A cash payment of £105 18s. 7d., and forty half-yearly instalments of £10 15s. each.

A cash payment of £101 9s. 6d., and fifty half-yearly instalments of £9 10s. each.

The Commissioners will not direct the instalments to be calculated in any case until the replies to the Queries have been submitted for their approval. It is estimated that about £5 10s. per cent. per annum on the purchase-money will pay off principal and interest in sixty-four half-yearly instalments.

To facilitate the purchase of small holdings by the tenants of the Commissioners, short forms of conveyance and mortgage have been printed by order of the Commissioners, and their solicitor, JOHN BALL, esq., of No. 11, Hume-street, Dublin, is bound to prepare and register *each* conveyance (if desired by the tenant), and each deed of mortgage at the following fixed charges, including everything but stamp duty and office fees on registration, viz.:—When purchase-money does not exceed £200, £2 2s.; when it exceeds £200 and does not exceed £500, £3 3s.

The purchaser can, however, employ his own solicitor to prepare his conveyance should he think proper to do so, in which case there will be no approval fee payable to the solicitor of the Commissioners. The mortgage must in all cases be prepared by the solicitor of the Commissioners.

NOTE.—The following Tables show the scale of Stamp Duties payable on Conveyances and Mortgages, also the amount of instalment that will pay off a mortgage in ten, twenty, thirty, forty, fifty, or sixty-four half-yearly instalments,* together with the present value for purposes of redemption of outstanding instalments of a mortgage extending over sixty-four half-years.†

TABLE (a) of STAMP DUTIES.

ON CONVEYANCES.			ON MORTGAGES.		
Purchase Money—	£	s. d.	Purchase Money—	s.	d.
Not exceeding	£5,	0 0 6	Not exceeding £25,	0	8
£5, and not exceeding, £10,	0	1 0	above £25, and not above £50,	1	3
£10,	£15,	0 1 6	“ £50,	£100,	2 6
£15,	£20,	0 2 0	“ £100,	£150,	3 9
£20,	£25,	0 2 6	“ £150,	£200,	5 0
£25,	£50,	0 5 0	“ £200,	£250,	6 3
£50,	£75,	0 7 6	“ £250,	£300,	7 6
£75,	£100,	0 10 0	“ £300, then for every	£100, or fractional part thereof, . . . }	2 6
£100,	£125,	0 12 6	“ £100, or fractional		
£125,	£150,	0 15 0	part thereof, . . . }		
£150,	£175,	0 17 6			
£175,	£200,	1 0 0			
£200,	£225,	1 2 6			
£225,	£250,	1 5 0			
£250,	£275,	1 7 6			
£275,	£300,	1 10 0			
Over £300—for every £50,† and fractional part of £50,†	0	5 0			

Together with Five Shillings duty on Memorial, and Registry Office Fees according to length of Memorial.

* These latter tables prepared for the Commissioners by W. J. Hancock, F.I.A.

† Tables for redemption of outstanding instalments of mortgages for a less number of half years have not been prepared; but special calculations for the redemption of such classes of mortgage are made on application to the Commissioners.

TABLE (b) showing Instalments which will pay off a Mortgage, with Interest at 4 per cent. per annum, in 10 half-years.

Mortgage.			Instalment	Mortgage.			Instalment.	Mortgage.			Instalment.	
£	s.	d.	£	s.	£	s.	d.	£	s.	d.	£	s.
8	19	8	1	0	368	5	8	41	0	727	11	9
17	19	4	2	0	377	5	4	42	0	736	11	5
26	18	11	3	0	386	5	0	43	0	745	11	1
35	18	7	4	0	395	4	8	44	0	754	10	9
44	18	3	5	0	404	4	4	45	0	763	10	5
53	17	11	6	0	413	4	0	46	0	772	10	0
62	17	7	7	0	422	3	8	47	0	781	9	8
71	17	2	8	0	431	3	3	48	0	790	9	4
80	16	10	9	0	440	2	11	49	0	799	9	0
89	16	6	10	0	449	2	7	50	0	808	8	8
98	16	2	11	0	458	2	3	51	0	817	8	3
107	15	10	12	0	467	1	11	52	0	826	8	0
116	15	6	13	0	476	1	6	53	0	835	7	7
125	15	2	14	0	485	1	2	54	0	844	7	3
134	14	9	15	0	494	0	10	55	0	853	6	11
143	14	5	16	0	503	0	6	56	0	862	6	7
152	14	1	17	0	512	0	2	57	0	871	6	2
161	13	9	18	0	520	19	9	58	0	880	5	10
170	13	4	19	0	529	19	5	59	0	889	5	6
179	13	0	20	0	538	19	1	60	0	898	5	2
188	12	8	21	0	547	18	9	61	0	907	4	10
197	12	4	22	0	556	18	5	62	0	916	4	5
206	12	0	23	0	565	18	1	63	0	925	4	1
215	11	8	24	0	574	17	8	64	0	934	3	9
224	11	3	25	0	583	17	4	65	0	943	3	5
233	10	11	26	0	592	17	0	66	0	952	3	1
242	10	7	27	0	601	16	8	67	0	961	2	9
251	10	3	28	0	610	16	3	68	0	970	2	5
260	9	11	29	0	619	16	0	69	0	979	2	0
269	9	7	30	0	628	15	8	70	0	988	1	8
278	9	2	31	0	637	15	3	71	0	997	1	4
287	8	10	32	0	646	14	11	72	0	1,008	1	0
296	8	6	33	0	655	14	6	73	0	1,015	0	8
305	8	2	34	0	664	14	2	74	0	1,024	0	3
314	7	9	35	0	673	13	11	75	0	1,032	19	11
323	7	5	36	0	682	13	6	76	0	1,041	19	7
332	7	1	37	0	691	13	2	77	0	1,050	19	2
341	6	9	38	0	700	12	10	78	0	1,059	18	11
350	6	5	39	0	709	12	6	79	0	1,068	18	7
359	6	1	40	0	718	12	2	80	0	1,077	18	2

TABLE (c) showing Instalments which will pay off a Mortgage, with Interest at 4 per cent. per annum, in 20 half-years.

Mortgage.			Instalment.		Mortgage.			Instalment.		Mortgage.			Instalment.	
£	s.	d.	£	s.	£	s.	d.	£	s.	£	s.	d.	£	s.
8	3	6	0	10	335	4	1	20	10	662	4	8	40	10
16	7	0	1	0	343	7	7	21	0	670	8	2	41	0
24	10	6	1	10	351	11	1	21	10	678	11	8	41	10
32	14	0	2	0	359	14	7	22	0	686	15	2	42	0
40	17	7	2	10	367	18	2	22	10	694	18	9	42	10
49	1	1	3	0	376	1	8	23	0	703	2	3	43	0
57	4	7	3	10	384	5	2	23	10	711	5	9	43	10
65	8	1	4	0	392	8	8	24	0	719	9	3	44	0
73	11	7	4	10	400	12	2	24	10	727	12	9	44	10
81	15	2	5	0	408	15	9	25	0	735	16	3	45	0
89	18	8	5	10	416	19	3	25	10	743	19	9	45	10
98	2	2	6	0	425	2	9	26	0	752	3	4	46	0
106	5	8	6	10	433	6	3	26	10	760	6	10	46	10
114	9	2	7	0	441	9	9	27	0	768	10	4	47	0
122	12	9	7	10	449	13	3	27	10	776	13	10	47	10
130	16	3	8	0	457	16	10	28	0	784	17	4	48	0
138	19	9	8	10	466	0	4	28	10	793	0	11	48	10
147	3	3	9	0	474	3	10	29	0	801	4	5	49	0
155	6	9	9	10	482	7	4	29	10	809	7	11	49	10
163	10	3	10	0	490	10	10	30	0	817	11	5	50	0
171	13	10	10	10	498	14	4	30	10	825	14	11	50	10
179	17	4	11	0	506	17	11	31	0	833	18	5	51	0
188	0	10	11	10	515	1	5	31	10	842	2	0	51	10
196	4	4	12	0	523	4	11	32	0	850	5	6	52	0
204	7	10	12	10	531	8	5	32	10	858	9	0	52	10
212	11	4	13	0	539	11	11	33	0	866	12	6	53	0
220	14	11	13	10	547	15	6	33	10	874	16	0	53	10
228	18	5	14	0	555	19	0	34	0	882	19	7	54	0
237	1	11	14	10	564	2	6	34	10	891	3	1	54	10
245	5	5	15	0	572	6	0	35	0	899	6	7	55	0
253	8	11	15	10	580	9	6	35	10	907	10	1	55	10
261	12	6	16	0	588	13	0	36	0	915	13	7	56	0
269	16	0	16	10	596	16	6	36	10	923	17	1	56	10
277	19	6	17	0	605	0	1	37	0	932	0	8	57	0
286	3	0	17	10	613	3	7	37	10	940	4	2	57	10
294	6	6	18	0	621	7	1	38	0	948	7	8	58	0
302	10	0	18	10	629	10	7	38	10	958	11	2	58	10
310	13	8	19	0	637	14	1	39	0	964	14	8	59	0
318	17	1	19	10	645	17	8	39	10	972	18	2	59	10
327	0	7	20	0	654	1	2	40	0	981	1	9	60	0

TABLE (d) showing Instalments which will pay off a Mortgage, with Interest at 4 per cent. per annum, in 30 half-years.

Mortgage.	Instalment.	Mortgage.	Instalment.	Mortgage.	Instalment.
£ s. d.	£ s.	£ s. d.	£ s.	£ s. d.	£ s.
5 12 0	0 5	229 11 3	10 5	453 10 7	20 5
11 3 11	0 10	235 3 3	10 10	459 2 7	20 10
16 15 11	0 15	240 15 3	10 15	464 14 6	20 15
22 7 11	1 0	246 7 3	11 0	470 6 6	21 0
27 19 11	1 5	251 19 2	11 5	475 18 6	21 5
33 11 10	1 10	257 11 2	11 10	481 10 6	21 10
39 3 10	1 15	263 3 2	11 15	487 2 6	21 15
44 15 10	2 0	268 15 2	12 0	492 14 5	22 0
50 7 10	2 5	274 7 2	12 5	498 6 5	22 5
55 19 10	2 10	279 19 1	12 10	503 18 5	22 10
61 11 9	2 15	285 11 1	12 15	509 10 5	22 15
67 3 9	3 0	291 3 1	13 0	515 2 4	23 0
72 15 9	3 5	296 15 1	13 5	520 14 4	23 5
78 7 9	3 10	302 7 1	13 10	526 6 4	23 10
83 19 9	3 15	307 19 0	13 15	531 18 4	23 15
89 11 8	4 0	313 11 0	14 0	537 10 4	24 0
95 3 8	4 5	319 3 0	14 5	543 2 3	24 5
100 15 8	4 10	324 15 0	14 10	548 14 3	24 10
106 7 8	4 15	330 7 0	14 15	554 6 3	24 15
111 19 8	5 0	335 18 11	15 0	559 18 3	25 0
117 11 7	5 5	341 10 11	15 5	565 10 3	25 5
123 3 7	5 10	347 2 11	15 10	571 2 2	25 10
128 15 7	5 15	352 14 11	15 15	576 14 2	25 15
134 7 7	6 0	358 6 10	16 0	582 6 2	26 0
139 19 7	6 5	363 18 10	16 5	587 18 2	26 5
145 11 6	6 10	369 10 10	16 10	593 10 2	26 10
151 3 6	6 15	375 2 10	16 15	599 2 1	26 15
156 15 6	7 0	380 14 10	17 0	604 14 1	27 0
162 7 6	7 5	386 6 9	17 5	610 6 1	27 5
167 19 6	7 10	391 18 9	17 10	615 18 1	27 10
173 11 5	7 15	397 10 9	17 15	621 10 1	27 15
179 3 5	8 0	403 2 9	18 0	627 2 0	28 0
184 15 5	8 5	408 14 9	18 5	632 14 0	28 5
190 7 5	8 10	414 6 8	18 10	638 6 0	28 10
195 19 4	8 15	419 18 8	18 15	643 18 0	28 15
201 11 4	9 0	425 10 8	19 0	649 9 11	29 0
207 3 4	9 5	431 2 8	19 5	655 1 11	29 5
212 15 4	9 10	436 14 8	19 10	660 13 11	29 10
218 7 4	9 15	442 6 7	19 15	666 5 11	29 15
223 19 4	10 0	447 18 7	20 0	671 17 11	30 0

TABLE (c) showing Instalments which will pay off a Mortgage, with Interest at 4 per cent. per annum, in 40 half-years.

Mortgage.			Instalment.		Mortgage.			Instalment.		Mortgage.			Instalment.	
£	s.	d.	£	s.	£	s.	d.	£	s.	£	s.	d.	£	s.
6	16	9	0	5	280	7	10	10	5	553	18	11	20	5
13	13	7	0	10	287	4	8	10	10	560	15	9	20	10
20	10	4	0	15	294	1	5	10	15	567	12	6	20	15
27	7	1	1	0	300	18	2	11	0	574	9	3	21	0
34	3	11	1	5	307	15	0	11	5	581	6	1	21	5
41	0	8	1	10	314	11	9	11	10	588	2	10	21	10
47	17	5	1	15	321	8	6	11	15	594	19	7	21	15
54	14	2	2	0	328	5	4	12	0	601	16	5	22	0
61	11	0	2	5	335	2	1	12	5	608	13	2	22	5
68	7	9	2	10	341	18	10	12	10	615	9	11	22	10
75	4	7	2	15	348	15	8	12	15	622	6	9	22	15
82	1	4	3	0	355	12	5	13	0	629	3	6	23	0
88	18	1	3	5	362	9	2	13	5	636	0	3	23	5
95	14	10	3	10	369	6	0	13	10	642	17	1	23	10
102	11	8	3	15	376	2	9	13	15	649	13	10	23	15
109	8	5	4	0	382	19	6	14	0	656	10	7	24	0
116	5	2	4	5	389	16	3	14	5	663	7	5	24	5
123	2	0	4	10	396	13	1	14	10	670	4	2	24	10
129	18	9	4	15	403	9	10	14	15	677	0	11	24	15
136	15	7	5	0	410	6	8	15	0	683	17	9	25	0
143	12	4	5	5	417	3	5	15	5	690	14	6	25	5
150	9	1	5	10	424	0	2	15	10	697	11	3	25	10
157	5	10	5	15	430	17	0	15	15	704	8	1	25	15
164	2	8	6	0	437	13	9	16	0	711	4	10	26	0
170	19	5	6	5	444	10	6	16	5	718	1	7	26	5
177	16	2	6	10	451	7	3	16	10	724	18	5	26	10
184	13	0	6	15	458	4	1	16	15	731	15	2	26	15
191	9	9	7	0	465	0	10	17	0	738	11	11	27	0
198	6	6	7	5	471	17	8	17	5	745	8	9	27	5
205	3	4	7	10	478	14	5	17	10	752	5	6	27	10
212	0	1	7	15	485	11	2	17	15	759	2	3	27	15
218	16	10	8	0	492	7	11	18	0	765	19	1	28	0
225	13	8	8	5	499	4	9	18	5	772	15	10	28	5
232	10	5	8	10	506	1	6	18	10	779	12	7	28	10
239	7	2	8	15	512	18	4	18	15	786	9	4	28	15
246	4	0	9	0	519	15	1	19	0	793	6	2	29	0
253	0	9	9	5	526	11	10	19	5	800	2	11	29	5
259	17	6	9	10	533	8	7	19	10	806	19	9	29	10
266	14	4	9	15	540	5	5	19	15	813	16	6	29	15
273	11	1	10	0	547	2	2	20	0	820	13	3	30	0

TABLE (f) showing Instalments which will pay off a Mortgage, with Interest at 4 per cent. per annum, in 50 half-years.

Mortgage.			Instalment.		Mortgage.			Instalment.		Mortgage.			Instalment.	
£	s.	d.	£	s.	£	s.	d.	£	s.	£	s.	d.	£	s.
7	17	1	0	5	322	1	10	10	5	636	6	7	20	5
15	14	3	0	10	329	18	11	10	10	644	3	8	20	10
23	11	4	0	15	337	16	1	10	15	652	0	9	20	15
31	8	6	1	0	345	13	2	11	0	659	17	11	21	0
39	5	7	1	5	353	10	4	11	5	667	15	0	21	5
47	2	9	1	10	361	7	5	11	10	675	12	2	21	10
54	19	10	1	15	369	4	7	11	15	683	9	3	21	15
62	16	11	2	0	377	1	8	12	0	691	6	4	22	0
70	14	1	2	5	384	18	9	12	5	699	3	6	22	5
78	11	2	2	10	392	15	11	12	10	707	0	7	22	10
86	8	4	2	15	400	13	0	12	15	714	17	9	22	15
94	5	5	3	0	408	10	2	13	0	722	14	10	23	0
102	2	6	3	5	416	7	3	13	5	730	11	11	23	5
109	19	8	3	10	424	4	5	13	10	738	9	1	23	10
117	16	9	3	15	432	1	6	13	15	746	6	2	28	15
125	13	11	4	0	439	18	7	14	0	754	3	4	24	0
133	11	0	4	5	447	15	9	14	5	762	0	5	24	5
141	8	1	4	10	455	12	10	14	10	769	17	7	24	10
149	5	3	4	15	463	10	0	14	15	777	14	8	24	15
157	2	4	5	0	471	7	1	15	0	785	11	10	25	0
164	19	5	5	5	479	4	2	15	5	793	8	11	25	5
172	16	7	5	10	487	1	3	15	10	801	6	0	25	10
180	13	9	5	15	494	18	5	15	15	809	3	2	25	15
188	10	10	6	0	502	15	6	16	0	817	0	3	26	0
198	7	11	6	5	510	12	8	16	5	824	17	5	26	5
204	5	1	6	10	518	9	9	16	10	832	14	6	26	10
212	2	2	6	15	526	6	11	16	15	840	11	8	26	15
219	19	4	7	0	534	4	0	17	0	848	8	9	27	0
227	16	5	7	5	542	1	2	17	5	856	5	10	27	5
235	13	6	7	10	549	18	3	17	10	864	3	0	27	10
243	10	8	7	15	557	15	4	17	15	872	0	1	27	15
251	7	9	8	0	565	12	6	18	0	879	17	2	28	0
259	4	11	8	5	573	9	7	18	5	887	14	4	28	5
267	2	0	8	10	581	6	9	18	10	895	11	5	28	10
274	19	1	8	15	589	3	10	18	15	903	8	7	28	15
282	16	3	9	0	597	1	0	19	0	911	5	8	29	0
290	13	4	9	5	604	18	1	19	5	919	2	10	29	5
298	10	6	9	10	612	15	2	19	10	926	19	11	29	10
306	7	7	9	15	620	12	4	19	15	934	17	0	29	15
314	4	9	10	0	628	9	5	20	0	942	14	2	30	0

TABLE (g) showing Instalments which will pay off a Mortgage, with Interest at 4 per cent. per annum, in 64 half-years.

Mortgage.	Instalment.	Mortgage.	Instalment.	Mortgage.	Instalment.
£ s. d.	£ s.	£ s. d.	£ s.	£ s. d.	£ s.
8 19 7	0 5	368 3 10	10 5	727 8 2	20 5
17 19 2	0 10	377 3 6	10 10	736 7 9	20 10
26 18 10	0 15	386 3 1	10 15	745 7 4	20 15
35 18 5	1 0	395 2 8	11 0	754 7 0	21 0
44 18 0	1 5	404 2 3	11 5	763 6 7	21 5
53 17 8	1 10	413 1 11	11 10	772 6 2	21 10
62 17 3	1 15	422 1 6	11 15	781 5 10	21 15
71 16 10	2 0	431 1 1	12 0	790 5 5	22 0
80 16 5	2 5	440 0 9	12 5	799 5 0	22 5
89 16 1	2 10	449 0 4	12 10	808 4 7	22 10
98 15 8	2 15	457 19 11	12 15	817 4 3	22 15
107 15 3	3 0	466 19 7	13 0	826 3 10	23 0
116 14 10	3 5	475 19 2	13 5	835 3 5	23 5
125 14 6	3 10	484 18 9	13 10	844 3 0	23 10
134 14 1	3 15	493 18 4	13 15	853 2 8	23 15
143 13 8	4 0	502 18 0	14 0	862 2 3	24 0
152 13 4	4 5	511 17 7	14 5	871 1 10	24 5
161 12 11	4 10	520 17 2	14 10	880 1 6	24 10
170 12 6	4 15	529 16 10	14 15	889 1 1	24 15
179 12 2	5 0	538 16 5	15 0	898 0 8	25 0
188 11 9	5 5	547 16 0	15 5	907 0 3	25 5
197 11 4	5 10	556 15 7	15 10	915 19 11	25 10
206 11 0	5 15	565 15 3	15 15	924 19 6	25 15
215 10 7	6 0	574 14 10	16 0	933 19 1	26 0
224 10 2	6 5	583 14 5	16 5	942 18 9	26 5
233 9 9	6 10	592 14 1	16 10	951 18 4	26 10
242 9 4	6 15	601 13 8	16 15	960 17 11	26 15
251 9 0	7 0	610 13 3	17 0	969 17 7	27 0
260 8 7	7 5	619 12 10	17 5	978 17 2	27 5
269 8 2	7 10	628 12 6	17 10	987 16 9	27 10
278 7 10	7 15	637 12 1	17 15	996 16 4	27 15
287 7 5	8 0	646 11 8	18 0	1,005 16 0	28 0
296 7 0	8 5	655 11 3	18 5	1,014 15 7	28 5
305 6 7	8 10	664 10 11	18 10	1,023 15 2	28 10
314 6 3	8 15	673 10 6	18 15	1,032 14 10	28 15
323 5 10	9 0	682 10 1	19 0	1,041 14 5	29 0
332 5 5	9 5	691 9 9	19 5	1,050 14 0	29 5
341 5 1	9 10	700 9 4	19 10	1,059 13 7	29 10
350 4 8	9 15	709 8 11	19 15	1,068 13 2	29 15
359 4 3	10 0	718 8 7	20 0	1,077 12 10	30 0

TABLE (b) showing the present amount for which Outstanding Instalments of Mortgages for sixty-four half-years can be redeemed.

Number of Instalments Outstanding.	Year's Purchase of Instalments.	Present Value of Instalments of £10.	Number of Instalments Outstanding.	Year's Purchase of Instalments.	Present Value of Instalments of £10.
		£ s. d.			£ s. d.
63	35·6398	356 8 0	51	31·7878	317 17 7
62	35·3526	353 10 6	50	31·4236	314 4 9
61	35·0597	350 11 11	49	31·0521	310 10 5
60	34·7609	347 12 2	48	30·6731	306 14 8
59	34·4561	344 11 3	47	30·2866	302 17 4
58	34·1452	341 9 1	46	29·8923	298 18 6
57	33·8281	338 5 8	45	29·4902	294 18 1
56	33·5047	335 0 11	44	29·0800	290 16 0
55	33·1748	331 15 0	43	28·6616	286 12 4
54	32·8383	328 7 8	42	28·2348	282 7 0
53	32·4950	324 19 0	41	27·7995	277 19 11
52	32·1449	321 9 0	40	27·3555	273 11 1

N.B.—In estimating the present value of outstanding instalments, the value of the instalment which is accruing due (and which must be paid in full) should not be taken into account.

SECTION 6.

SCHEDULE of FORMS of CONVEYANCE, MORTGAGE VESTING, and MERGING ORDERS, and GENERAL FORMS of PROCEDURE.

No. 1.—FORM of GRANT in PERPETUITY.

THIS INDENTURE made the day of , in the year of our Lord one thousand eight hundred and seventy- between the Commissioners of Church Temporalities in Ireland, hereinafter called "the said Commissioners," of the one part, and , of , in the county of , hereinafter called "the said purchaser," of the other part. Whereas by indenture of lease bearing date the day of , and made between the Ecclesiastical Commissioners for Ireland of the one part, and the said purchaser of the other part, the said Ecclesiastical Commissioners for Ireland, for the considerations therein mentioned, did demise unto the said purchaser the lands, tenements, and hereditaments therein and hereinafter more particularly mentioned and described, to hold the said demised premises, with the appurtenances, unto the said purchaser, his executors, administrators, and assigns, from the day of one thousand eight hundred and for and during the term of twenty-one years from thence next ensuing, and fully to be completed and ended, subject to the payment of the yearly rent of £ to be paid at the four usual feasts or days of payment in the year, that is to say, on the day of , the day of , the day of , and the day of in every year, by four even and equal portions over and above all quit rent, crown rent, taxes, and impositions whatsoever. And whereas under and by virtue of the Act of the 32nd and 33rd of Her Majesty Queen Victoria, cap. 42, entitled "An Act to put an end to the Establishment of the Church in Ireland, and to make provision in respect of the Temporalities thereof, and in respect of the Royal College of Maynooth," all the estates real and personal of the said Ecclesiastical Commissioners for Ireland

have become legally vested in the said Commissioners parties hereto. And whereas the said purchaser, being duly authorized and entitled in that behalf, under and by virtue of the several Acts of Parliament in force for altering and amending the laws relating to the Temporalities of the Church in Ireland, did, on or about the day of , by notice in writing under his hand bearing date the said day of , notify to the said Commissioners that he the said purchaser was ready and willing to purchase the fee-simple and inheritance of and in the said lands and premises, pursuant to the provisions of the said Acts and in the manner authorized thereby. And whereas the said Commissioners, pursuant to the provisions of the said Acts, and to the several duties, powers, and authorities thereby imposed upon and vested in them have duly proceeded to ascertain the amount of the purchase-money to be paid by the said purchaser as the consideration for the purchase of the fee-simple and inheritance of and in the said lands and premises, and of the annual rent to be reserved and made payable thereout, as hereinafter mentioned; and the said Commissioners have granted to the said purchaser a certificate under their common seal, bearing date the day of , stating and certifying, amongst other things, that the amount of the purchase-money to be paid by the said purchaser as the consideration for the purchase of the fee-simple and inheritance of and in the said lands and premises was £ , and that the amount of the annual rent to be reserved and made payable in and by the deed or deeds of conveyance to be executed to him, the said purchaser was £ . And whereas the said Commissioners have, pursuant to the said Acts, duly notified, in writing, to His Excellency the Lord Lieutenant of Ireland in Council, the terms and particulars of the said proposed purchase of the said lands and premises, and the said purchase-money to be paid in respect thereof, and the said annual rent to be hereafter reserved from and out of the same lands and premises, together with the amount of the annual rent and the average annual renewal fine heretofore payable in respect of the said lands and premises, ascertained as in and by the said Acts is directed, and the said Lord Lieutenant in Council has duly signified his approval thereof. And whereas the said purchaser, pursuant to the provisions of the said Acts, and within six calendar months after the date of the said last mentioned certificate, has paid into the Bank of Ireland to the credit of the cash account of the said Commissioners the said sum of £ , and hath produced to the said Commissioners the receipt of the Cashier of the Bank of Ireland for the said sum of £ , the amount of the said purchase-money. And whereas, as well, all and singular the matters and things hereinbefore mentioned, as all other acts, deeds, matters, and things whatsoever necessary or proper to be done or performed, or in order, or previous to the completion of such purchase as aforesaid, have been duly and fully done and performed, pursuant to the provisions of the said Acts, and according to the true intent and meaning thereof. Now this Indenture witnesseth that the said Commissioners, pursuant to and by virtue and authority of the said Acts, and in consideration of the said sum of £ sterling, so paid by the said purchaser, as aforesaid, and in consideration of the annual rent and covenants hereinafter reserved and contained on the part of the said purchaser, his heirs, and assigns, to be paid, done, and performed, do, by these presents, grant, bargain, sell, convey, release, and confirm unto the said purchaser, and to his heirs, all that and those [*here state lands*], situate, lying, and being in the diocese of and county of , as now in the possession of the said purchaser, or his under-tenants, together with all buildings, houses, out-houses, gardens, yards, orchards, ways, paths, passages, waters, water-courses, royalties, mines, minerals,

quarries, mosses, trees, woods, underwoods, turf, turf bogs, commons, commonable rights, hedges, ditches, fences, mounds, liberties, privileges, profits, commodities, advantages, easements, and appurtenances whatsoever to the said lands, tenements, and premises hereby released and conveyed, or intended so to be, or to any of them, or any part thereof respectively belonging or in anywise appertaining, or with the same or any part thereof now or at any time heretofore usually held, occupied, or enjoyed, or accepted, reputed, deemed, taken, or known as part, parcel, or member thereof, or of any of them respectively, and the reversion and reversions, remainder and remainders, yearly, and other the rents, issues, and profits of the said lands, tenements, and premises hereby released and conveyed or intended so to be, and every part and parcel of the same, with their and every of their appurtenances, and all the estate, right, title, and interest, use, trust, inheritance, property, possession, claim, and demand whatsoever, both at law and in equity, or otherwise howsoever of them the said Commissioners of, into, or out of, or upon the said lands, tenements, and premises with their and every of their appurtenances (subject, however, to the covenants and provisoes hereinafter contained in relation to mines and quarries of marble or slate which may hereafter be opened and worked in, on, or under the said lands, tenements, and premises, and the rents to be reserved thereout), to have and to hold the said lands, tenements, and premises, and all other the premises hereby released and conveyed, or intended so to be, with their and every of their appurtenances unto the said purchaser, his heirs and assigns, to the use of him the said purchaser, his heirs and assigns for ever, in as full, large, ample, and beneficial a manner as the said Commissioners have, or may, or can have power or authority to grant, release, and convey the same under and by virtue of the said Acts, he, the said purchaser, his heirs and assigns, yielding and paying therefor and thereout yearly and every year, unto the said Commissioners, their successors and assigns for ever the yearly rent or sum of £ , or such increased or diminished yearly rent or sum as shall or may from time to time or at any time hereafter be substituted in the place or stead of the said reserved yearly rent, pursuant to the provisions for that purpose contained in the said Acts, the said reserved yearly rent, or such increased or diminished yearly rent so to be substituted in the place or stead thereof, to be paid and payable by four even and equal quarterly payments in the year, that is to say, on the day of , day of , day of , and day of , in each and every year clear over and above all quit and crown rent, taxes, charges, assessments, and deductions whatsoever, as well present as future, the first quarterly payment thereof to be made on which ever of said gale days shall occur next ensuing the date hereof; and the said purchaser for himself, his heirs, executors, administrators, and assigns, doth hereby covenant, promise, and agree to and with the said Commissioners, their successors and assigns, in manner and form following, that is to say, that he the said purchaser, his heirs and assigns, shall and will from time to time, and at all times hereafter, well and truly pay, or cause to be paid, unto the said Commissioners, their successors and assigns, the said yearly rent hereby reserved and made payable, or such other rent as shall or may be substituted for the same as aforesaid, upon and at the several days and times hereinbefore respectively provided for payment of same; and if it shall happen that the said yearly rent hereby reserved, or such other rent as shall or may be substituted for the same as aforesaid, or any part or parts thereof respectively shall be in arrear or unpaid for or by the space of twenty-one days next after either or any of the said days whereon the same ought to be paid as aforesaid, that then, and so often as it shall so happen, it shall and may

be lawful to and for the said Commissioners, their successors and assigns, into the said lands and premises hereby granted and conveyed, or any part thereof, to enter and distrain, and the distress and distresses then and there found, to take, lead, drive, carry away, and thereof to dispose according to law, and for want of sufficient distress on the said hereby granted and conveyed premises to be had, then into the same premises or any part thereof in the name of the whole to re-enter, and the same to have again, repossess and enjoy, as in their former estate, anything herein contained to the contrary in anywise notwithstanding. And the said purchaser doth hereby for himself, his heirs, executors, administrators, and assigns, covenant and agree to and with the said Commissioners, their successors and assigns, that if at any time hereafter any mine or mines, or any quarry or quarries, of marble or slate, in, on, or under the said lands and premises hereby granted and conveyed, shall be opened and worked, or any profit or produce derived therefrom, then and in that case he the said purchaser, his heirs and assigns, shall and will, over and above the said annual rent hereby reserved, or any rent which shall or may be substituted for the same as aforesaid, yield and pay unto the said Commissioners, their successors and assigns, a further and additional rent equal in amount to one moiety of any royalty or other rent which shall be reserved out of such mines or quarries under any lease or contract for a lease which the said purchaser, his heirs or assigns, shall at any time, or from time to time hereafter, make or execute with or to any person or persons, body politic or corporate or joint stock company, who shall undertake the opening and working of such mines or quarries. And the said purchaser for himself, his heirs, executors, administrators, and assigns, doth further covenant and agree with the said Commissioners, their successors and assigns, that in case he the said purchaser, his heirs or assigns, shall not make or execute any such lease or contract as aforesaid, but shall, by himself or themselves, or his or their agents or workmen, open and work any mine or mines, or any quarry or quarries of marble or slate, in, on, or under the said lands and premises hereby granted and conveyed, or any part of them, that then and in such case he the said purchaser, his heirs and assigns, shall and will, over and above the said yearly rent of £ , or any rent which shall or may hereafter be substituted in lieu thereof, pursuant to the provisions of the statutes in that behalf, yield and pay unto the said Commissioners, their successors and assigns, a further and additional rent equal in amount to one moiety of such royalty rent as has been heretofore usually reserved by the said Ecclesiastical Commissioners for Ireland under leases of mines or quarries of a similar nature, and under like circumstances to or with those which shall be so opened by the said purchaser, his heirs or assigns, as aforesaid. Provided always, and it is hereby agreed between the parties hereto, that such additional rent shall be subject to be increased or diminished at the expiration of twenty-one years from the time when the same shall first become payable as aforesaid, according to the increase or diminution of the net profits or produce which shall be derived from the working of such mines or quarries; and that in like manner, at the expiration of each successive period of twenty-one years, a similar variation in such additional rent shall be made, and that such diminished or increased additional rent shall be payable during the term of twenty-one years then next succeeding, and also that all the powers and remedies hereinbefore contained for recovery of the said rent of £ hereby reserved shall apply to and be available for recovery of such additional rent, and that said additional rent shall be paid and payable on the same days and times and in like manner as said original rent of £ is hereinbefore reserved and made

payable. And whereas the said Commissioners, at the request of the said purchaser, have, pursuant to the provisions of the said Acts, calculated and ascertained upon the returns advertised in the Public Gazette for a period of ten years immediately preceding the day of May, one thousand eight hundred and seventy- , being the first day of May next before the service by the said purchaser of the notice first above mentioned, the average price of being the corn principally grown in the district of said county wherein the said lands are situate for the said period of ten years, and have ascertained the said average price to be per barrel. Now the said Commissioners have, at the said request of the said purchaser, directed the said average price of per barrel to be inserted in the present deed of conveyance, and the same is herein inserted accordingly.

In witness whereof the said Commissioners have hereunto affixed their corporate seal, and the said purchaser hath hereunto set his hand and seal, the day and year first in these presents written.

Sealed and Delivered by the said Commis-
sioners of Church Temporalities in Ireland }
in presence of }

Signed, Sealed, and Delivered by the said }
Purchaser in presence of }

No. 2.—FORM OF CONVEYANCE OF PERPETUITY RENT.

THIS INDENTURE made the day of in the year of our Lord one thousand eight hundred and seventy- between the Commissioners of Church Temporalities in Ireland (hereinafter called the said Commissioners) of the one part, and (hereinafter called the said purchaser) of the other part. Whereas by indenture of release bearing date the day of one thousand eight hundred and and made between after reciting as therein is recited the said pursuant to and by virtue of the several Acts of Parliament therein referred to, and for the considerations therein mentioned, did grant, release and confirm unto the said and to heirs, the lands, hereditaments, and premises therein and hereinafter mentioned and described, to hold the same, with the appurtenances, unto and to the use of the said heirs and assigns for ever, subject to the perpetual yearly rent of £ payable as therein mentioned. And whereas the estate and interest of the said of and in the said lands and premises have become and now are legally vested in the said purchaser . And whereas under and by virtue of the provisions of the Act of the 32nd & 33rd of Her Majesty Queen Victoria, cap. 42, shortly entitled "The Irish Church Act, 1869," all the estate real and personal of the said have become legally vested in the said Commissioners parties hereto. And whereas the said Commissioners, pursuant to the provisions of the "Irish Church Act, 1869," have offered to sell to the said purchaser the said perpetual yearly rent of reserved and made payable by the said indenture of release of the day of one thousand eight hundred and at or for the price or sum of being twenty-five times the amount of said rent. And whereas the said purchaser hath paid into the Bank of Ireland, to the credit of the cash account of the said Commissioners the [said] sum of [being the one-fourth part of said purchase money, and hath executed to the said Commissioners of Church Temporalities in Ireland a mortgage for the sum of being the residue of said purchase money]. Now this indenture witnesseth that the

said Commissioners, under the authority of the said "Irish Church Act, 1869," and in consideration of the said sum of so paid as aforesaid [and of the sum of "*so secured by indenture of mortgage bearing equal date herewith*"], do grant unto the said purchaser the said perpetual yearly rent of created by the said indenture of the day of one thousand eight hundred and charged and chargeable upon and issuing and payable out of all that and those [*here state lands*]. And all powers and remedies for recovery thereof, with the appurtenances thereunto belonging, and all the estate of the said grantors in the said perpetual yearly rent or sum of To hold the same unto the said purchaser heirs and assigns for ever. In witness whereof the said Commissioners have hereunto affixed their corporate seal, the day and year first herein written.

No. 3.—FORM of CONVEYANCE of ORDINARY HOLDINGS.

Diocese of

Benefice of

WE, the Commissioners of Church Temporalities in Ireland, under the authority of an Act passed in the 32nd & 33rd years of the reign of Her Majesty Queen Victoria, cap. 42, shortly intituled "The Irish Church Act, 1869," in consideration of the sum of in the county of paid into the Bank of Ireland to our account [*and of the further sum of secured by indenture of mortgage bearing even date herewith*], do grant unto the said the town and lands of [*here state lands*], statute measure, or thereabouts, as now in the possession of the said with the appurtenances. To hold the same unto the said his heirs and assigns for ever, subject to such rights of common, rights of way, and other easements (if any), as now affect the said premises. In witness whereof we, the said Commissioners of Church Temporalities in Ireland, have hereunto affixed our corporate seal, this day of one thousand eight hundred and seventy-

Sealed by the said Commissioners of }
Church Temporalities in Ireland }
in presence of

No. 4.—FORM of SIMPLE MORTGAGE—PERPETUITY RENTS.

THIS INDENTURE, made the day of in the year of our Lord one thousand eight hundred and seventy- between in the county of hereinafter called "the said trustee," of the first part, hereinafter called the "said purchaser," of the second part, and the Commissioners of Church Temporalities in Ireland of the third part. Whereas by indenture of conveyance bearing even date herewith, but executed immediately before these presents, and made between the said Commissioners of Church Temporalities in Ireland of the first part, the said purchaser, of the second part, and the said trustee of the third part. After reciting that by indenture of release bearing date the day of 18 and made between of the first part, of the second part, and of the third part, the said for the considerations therein mentioned, granted, released, and confirmed unto the said and to his heirs, the lands tenements, and premises therein and hereinafter particularly mentioned and described To hold unto and to the use of the said his heirs and assigns for ever, subject to the perpetual yearly rent of £ payable as therein mentioned. And reciting that and reciting that the said

Commissioners of Church Temporalities in Ireland, pursuant to the provisions of the said "Irish Church Act, 1869," had offered to sell to the said purchaser the said perpetual yearly rent of £ reserved and made payable by the said indenture of the day of 18 at or for the price or sum of £ being twenty-five times the amount of said rent, and that the said purchaser had accepted the said offer, and had applied to and requested the said Commissioners of Church Temporalities in Ireland to grant and convey the said perpetuity rent of £ to the said trustee, as a trustee for him the said purchaser, and that the said purchaser had paid into the Bank of Ireland to the credit of the cash account of the said Commissioners of Church Temporalities in Ireland, the sum of £ being one portion of said purchase money, and that by deed of even date therewith (meaning these presents) the sum of £ being the residue of said purchase money was to be secured to the said Commissioners of Church Temporalities in Ireland by a mortgage of the said rent from the said trustee and the said purchaser, parties thereto. And further reciting as therein is recited, said indenture witnessed that the said Commissioners of Church Temporalities in Ireland, pursuant to and by virtue and authority of the said "Irish Church Act, 1869," and in consideration of the said sum of £ so paid as aforesaid, and of the further sum of £ intended to be secured by these presents, said two sums making together the said purchase money of £ did at the request and by the direction of the said purchaser, testified by execution thereof, grant unto the said trustee the said perpetual yearly rent of £ created by the said indenture of the day of 18 charged and chargeable upon and issuing and payable out of all that and those the lands, tenements, and premises therein and hereinafter mentioned and described. To hold the same unto and to the use of the said trustee, his heirs, and assigns for ever, but nevertheless in trust for the said purchaser, his heirs and assigns absolutely. Now this indenture witnesseth that the said trustee, pursuant to the provisions of the said "Irish Church Act, 1869," and in consideration of the execution of said indenture of even date herewith, doth (by and with the consent and at the direction of the said purchaser, testified by executing these presents), grant and convey unto the said Commissioners of Church Temporalities in Ireland, their successors and assigns, all that the said perpetual yearly rent or sum of £ charged and chargeable upon and issuing and payable out of all that and those and all powers and remedies for recovery thereof, with the appurtenances. To have and to hold the said perpetual yearly rent or sum of £ unto the said Commissioners of Church Temporalities in Ireland, their successors and assigns for ever, subject to the proviso hereinafter contained, that is to say, provided always that if the said purchaser, his heirs, executors, or administrators, shall and will well and truly pay or cause to be paid unto the said Commissioners of Church Temporalities in Ireland, their successors or assigns, on or before the day of 18 the said principal sum of £ with interest for the same at the rate of £4 per cent. per annum, such interest to be paid and payable by two half-yearly gales, on every day of and day of in each and every year, and do and shall from time to time, according as the same shall become due and payable, make all and every the said payments, on the same days in each year, so long as the said principal sum shall remain unpaid, without any deduction, default, or abatement whatsoever, then and in such case they the said Commissioners of Church Temporalities in Ireland, their successors and assigns, shall and will, at any time after payment of the said sum of £ and all interest due thereon, upon the request and at the costs and expenses of the said purchaser, his heirs and assigns, reconvey and assure the said

perpetual yearly rent or sum of £ issuing and payable out of the aforesaid lands and premises, unto the said trustee, his heirs and assigns. And the said purchaser doth hereby for himself, his heirs, executors, and administrators, covenant, promise, and agree to and with the said Commissioners of Church Temporalities in Ireland, their successors and assigns, that he the said purchaser, his heirs, executors, and administrators, and the said trustee, his heirs, executors, and administrators, or some or one of them, shall and will well and truly pay or cause to be paid unto the said Commissioners of Church Temporalities in Ireland, their successors or assigns the said sum of £ with interest at the rate of £4 per cent. per annum, on the days and times and in the manner hereinbefore appointed for payment thereof, without any deduction, defalcation, or abatement whatsoever; but if default shall happen to be made in performance of the said proviso, then and in such case the said Commissioners of Church Temporalities in Ireland, their successors or assigns, shall and may at any time after such default, without the concurrence of the said trustee, or his heirs, or of the said purchaser, his heirs or assigns, either by public auction or private contract, sell the said perpetual yearly rent or sum of £ hereby assured in manner aforesaid, with liberty to buy in and resell the same, and out of the money arising from such sale or sales, first to retain all the costs and expenses of such sales, and in the next place to retain all such principal money and interest as shall be due on account of the money secured by these presents, and to pay the residue of said money (if any) unto the said purchaser, his executors, administrators, or assigns. And further that he the said purchaser, and the said trustee, their heirs and assigns, shall and will, from time to time and at all times hereafter, at the proper costs and charges in the law of the said purchaser, his heirs and assigns, make, do, acknowledge, levy, suffer, execute, and perfect, or cause, or procure to be made, done, acknowledged, levied, suffered, executed, and perfected, all and every such further and other lawful and reasonable acts, deeds, conveyances, and assurances, in the law whatsoever, for the further, better, and more perfectly and absolutely granting, conveying, assuring, and confirming the said perpetual yearly rent hereby granted and conveyed, or intended so to be, with their and every of their appurtenances, unto the said Commissioners of Church Temporalities in Ireland, their successors and assigns, as they the said Commissioners of Church Temporalities in Ireland, their successors or assigns, or their counsel learned in the law shall lawfully and reasonably advise, devise, or require. In witness whereof the said trustee and the said purchaser have hereunto set their hands and affixed their seals, and the said Commissioners of Church Temporalities in Ireland have hereunto affixed their corporate seal, the day and year first herein written.

Signed, sealed, and delivered by the said }
trustee in presence of }

Signed, sealed, and delivered by the said }
purchaser in presence of }

NO. 5.—FORM of INSTALMENT MORTGAGE.—PERPETUITY RENTS.

THIS INDENTURE made the day of in the year of our Lord, one thousand eight hundred and seventy between hereinafter called "the said trustee," of the first part, hereinafter called "the said purchaser," of the second part, and the Commissioners of Church Temporalities in Ireland, hereinafter called "the said Commissioners," of the

third part, whereas by indenture of conveyance, bearing even date herewith, but executed immediately before these presents, and made between the said Commissioners of the first part, the said purchaser of the second part, and the said trustee of the third part, reciting as therein is recited, and amongst other things, that by indenture of release, bearing date the day of and made between the said pursuant to, and by virtue of the several Acts of Parliament therein referred to, and for the considerations therein mentioned, did grant, release, and confirm unto the said and to his heirs, the lands, hereditaments, and premises, therein and hereafter mentioned and described, to hold the same with the appurtenances, unto and to the use of the said his heirs and assigns for ever, subject to the perpetual yearly rent of £ payable as therein mentioned. And reciting that the said Commissioners, pursuant to the provisions of the said "Irish Church Act, 1869," had offered to sell to the said purchaser the said perpetual yearly rent of £ reserved and made payable by the said indenture of release, of the day of at or for the price or sum of £ being twenty-five times the amount of said rent, and that the said purchaser had accepted said offer, and had requested the said Commissioners to grant and convey the said perpetuity rent to the said trustee as a trustee for him the said purchaser, and that the said Commissioners, pursuant to the powers in them vested by the "Irish Church Act, 1869," had at the request of the said purchaser, agreed to credit him with the sum of £ being one portion of the said purchase-money of £ the said Commissioners, parties hereto, did by said deed now in recital, for and in consideration of the sum of £ so paid by the said purchaser into the Bank of Ireland to the credit of the said Commissioners, and of the further sum of £ intended to be secured by these presents, at the request and by the direction of the said purchaser (testified by his being a party to and executing said presents), grant unto the said trustee and his heirs, the said perpetual yearly rent or sum of £ issuing and payable out of, and charged and chargeable upon the lands and premises hereinafter more particularly described. To hold the same unto and to the use of the said trustee, his heirs and assigns, but nevertheless in trust for the said purchaser, his heirs and assigns absolutely. And whereas the said Commissioners have further agreed that the said sum of £ with interest at the rate of £4 per cent. per annum, shall be repayable by half-yearly instalments, in manner as empowered by the said "Irish Church Act, 1869," and have calculated the amount of each such half-yearly instalment to be £. Now this indenture witnesseth that, in consideration of the premises, and by and with the consent, and at the request of the said purchaser, testified by his being a party to, and executing these presents, he the said trustee doth grant and convey, and the said purchaser doth confirm unto the said Commissioners, their successors and assigns, all that the said perpetual yearly rent or sum of £ charged and chargeable upon, and issuing and payable out of all that and those. To have and to hold the said perpetual yearly rent or sum of £ issuing and payable out of the aforesaid lands and premises, unto the said Commissioners, their successors and assigns for ever, subject to the proviso hereinafter contained, that is to say: Provided always that if the said purchaser, his heirs, executors, or administrators, shall and will pay, or cause to be paid to the said Commissioners, their successors or assigns, the said principal sum of £ with interest at the rate of £4 per cent. per annum, by half-yearly instalments, of £ each, from the day of 187, same to be paid on the day of and day of in each and every year, or within forty-one days next after any of the days upon which such half-

yearly instalment shall so become due and payable, until the whole of said half-yearly instalments are paid, then, and in that case, the said Commissioners, their successors or assigns, shall and will reconvey and assure the said yearly rent or sum of £ issuing and payable out of the aforesaid lands and premises, unto the said trustee, his heirs or assigns, or as the said purchaser his heirs and assigns shall direct and appoint. And the said purchaser doth hereby for himself, his heirs, executors and administrators, covenant, promise, and agree to and with the said Commissioners, their successors and assigns, that he the said purchaser, his heirs, executors, or administrators, shall and will well and truly pay, or cause to be paid unto the said Commissioners, their successors and assigns, the said principal sum of £ with interest at the rate of £4 per cent. per annum, by half-yearly instalments of £ on the days and in the manner hereinbefore appointed for payment thereof, until the whole of said half-yearly instalments are paid, but if default shall be made in performance of the said proviso, then and in such case, the said Commissioners, their successors or assigns, shall and may at any time after such default, without the concurrence of the said purchaser, or his heirs, or of the said trustee, his heirs or assigns, sell either by public auction or private contract, the said perpetual yearly rent of £ hereby assured in manner aforesaid, with liberty to buy in and resell the same, and out of the money arising from such sale or sales first to retain, all the costs and expenses of such sales, and in the next place to retain all such principal money and interest which shall be due on account of the money secured by these presents, and to pay the residue of said money, if any, unto the said purchaser, his executors, administrators, or assigns; and further, that he the said purchaser and his heirs, and the said trustee, his heirs and assigns, shall and will from time to time, and at all times from and immediately after default if any shall be made in the payment of the said hereinbefore mentioned half-yearly instalments, contrary to the form and effect of the aforesaid proviso, or covenant for payment of the same, and the true intent and meaning of these presents upon the reasonable request of the said Commissioners, their successors and assigns, but at the proper costs and charges in the law of the said purchaser, his heirs and assigns, make, do acknowledge, levy, suffer, execute, and perfect, or cause, or procure to be made, done, acknowledged, levied, suffered, executed, and perfected, all and every such further and other lawful and reasonable acts, deeds, conveyances, and assurances in the law whatsoever, for the further, better, and more perfectly, and absolutely conveying, assuring, and confirming the aforesaid perpetual yearly rent of £ or other the premises hereby granted, and conveyed, or intended so to be, with their and every of their appurtenances unto the said Commissioners, their successors and assigns, or otherwise, as they or their counsel, learned in the law, shall lawfully and reasonably advise, devise or require. In witness whereof, the said trustee and the said purchaser have hereunto set their hands and seals, and the said Commissioners of Church Temporalities in Ireland, have hereunto affixed their corporate seal, the day and year first herein written.

Signed, Sealed, and Delivered by the
said Trustee, }

Signed, Sealed, and Delivered by the
said Purchaser, }

No. 6.—FORM OF SIMPLE MORTGAGE—ORDINARY HOLDINGS.

*Diocese of**Benefice of*

THIS DEED, made the day of in the year of our Lord one thousand eight hundred and seventy- between , of , in the county of , hereinafter called "the said purchaser," of the one part, and the Commissioners of Church Temporalities in Ireland, hereinafter called "the said Commissioners," of the other part. Whereas the said purchaser hath agreed with the said Commissioners for the purchase of the fee-simple of the lands and premises hereinafter mentioned and described at or for the price or sum of . And whereas the said Commissioners, pursuant to the powers in them vested by "The Irish Church Act, 1869," have, at the request of the said purchaser, agreed to credit the said purchaser with the sum of , portion of said purchase-money, upon having payment of the said sum, with interest thereon at the rate of four pounds per cent. per annum, secured in manner hereafter mentioned. And whereas, by indenture of even date herewith, the said Commissioners in consideration of the sum of paid by the said purchaser, and of the further sum of intended to be secured by these presents, did grant unto the said purchaser the town and lands therein and hereinafter mentioned and described, to hold to the said purchaser, his heirs and assigns for ever. Now this Deed witnesseth that the said purchaser, in consideration of the execution of the said indenture of conveyance, pursuant to the provisions of "The Irish Church Act, 1869," doth grant and release unto the said Commissioners, their successors and assigns, all that with the rights, members, and appurtenances thereto belonging, as now in possession of the said purchaser, to have and to hold the said lands and premises unto the said Commissioners, their successors and assigns for ever, subject to the proviso for redemption hereinafter contained, that is to say, provided always, that if the said purchaser, his heirs, executors, administrators, or assigns, shall pay or cause to be paid to the said Commissioners, their successors or assigns, on or before the day of one thousand eight hundred and seventy- the said sum of with interest for the same at the rate of four pounds per cent. per annum, such interest to be paid and payable by two half yearly gales on every day of and day of then they the said Commissioners, their successors and assigns, shall and will reconvey and assure the said lands and premises, with the appurtenances to the said purchaser, his heirs and assigns. And the said purchaser doth hereby for himself, his heirs, executors, and administrators, covenant, promise, and agree to and with the said Commissioners, their successors and assigns, that he the said purchaser, his heirs, executors, or administrators, shall and will well and truly pay or cause to be paid to the said Commissioners, their successors or assigns, the said sum of with interest at the rate of four pounds per cent. per annum, on the days and times, and in the manner hereinbefore appointed for payment thereof, without any deduction, defalcation, or abatement whatsoever. In witness whereof the said purchaser hath hereto set his hand and affixed his seal the day and year first above written.

Signed, Sealed, and delivered by the said }
 purchaser, in the presence of }

No. 7.—FORM OF INSTALMENT MORTGAGE—ORDINARY HOLDINGS.

Diocese of

Benefice of

THIS DEED, made the day of in the year of our Lord one thousand eight hundred and seventy- between of in the county of hereinafter called "the said purchaser," of the one part, and the Commissioners of Church Temporalities in Ireland, hereinafter called "the said Commissioners," of the other part. Whereas the said purchaser hath agreed with the said Commissioners for the purchase of the fee-simple of the lands and premises hereinafter mentioned and described at or for the price or sum of And whereas the said Commissioners, pursuant to the powers in them vested by "The Irish Church Act, 1869," have, at the request of the said purchaser, agreed to credit him with the sum of portion of the said purchase money, upon having payment of the said sum, with interest secured in manner hereinafter mentioned. And whereas the said Commissioners, pursuant to the said powers in them vested by the said Act, have further agreed, at the request of the said purchaser, to make the said sum of payable by half yearly instalments, and have calculated and ascertained the amount of each of such half yearly instalment to be the sum of And whereas, by indenture of even date herewith, the said Commissioners, in consideration of the sum of paid by the said purchaser, and of the further sum of intended to be secured by these presents, did grant unto the said purchaser the town and lands therein and hereinafter mentioned and described, to hold to the said purchaser, his heirs and assigns, for ever. Now, this deed witnesseth that the said purchaser, in consideration of the execution of the said indenture, pursuant to the provisions of "The Irish Church Act, 1869," doth grant and release unto the said Commissioners, their successors and assigns, all that with the rights, members, and appurtenances thereto belonging, as now in the possession of the said purchaser, to have and to hold the said lands and premises unto the said Commissioners, their successors and assigns for ever, subject to the proviso hereinafter contained, that is to say, provided always, that if the said purchaser, his heirs, executors, and administrators, shall and will pay or cause to be paid to the said Commissioners, their successors or assigns, half yearly instalments of each, same to be paid and payable on the day of and the day of in each year, or within forty-one days next after any of the days upon which such half yearly instalment shall so become due and payable, until the whole of said half yearly instalments are paid; then and in that case the said Commissioners, their successors and assigns shall and will reconvey and assure the said lands and premises, with the appurtenances, unto the said purchaser, his heirs and assigns. And the said purchaser doth hereby for himself, his heirs, executors, and administrators, covenant, promise, and agree to and with the said Commissioners, their successors and assigns, that he the said purchaser, his heirs, executors, or administrators, shall and will well and truly pay or cause to be paid to the said Commissioners, their successors or assigns, the said half yearly instalments of on the days and in the manner hereinbefore appointed for payment thereof; but if default shall be made in performance of the said proviso, the said Commissioners, their successors or assigns, shall and may at any time after such default, without the concurrence of the said purchaser, his heirs or assigns, sell the lands, tenements, and premises hereby released or intended so to be, or any part thereof, either together or in parcels, by public auction or private contract, with liberty to buy in and resell the same, and out of the money arising from such sale or sales first to

retain all the costs and expenses of such sales, and, in the next place, to retain all such principal money which shall be due on account of the money secured by these presents, and to pay the residue of said money (if any) unto the said purchaser, his executors, administrators, or assigns. In witness whereof the said purchaser hath hereto set his hand and affixed his seal the day and year first above written.

Signed, Sealed, and Delivered by the said }
purchaser, in presence of }

NO. 8.—FORM OF MEMORIAL FOR REGISTRATION OF MORTGAGES.

To the REGISTRAR appointed by ACT of PARLIAMENT for REGISTERING
DEEDS, WILLS, and so forth, in IRELAND.

A MEMORIAL of a DEED of MORTGAGE, made the day of in the year of our Lord one thousand eight hundred and seventy- between in the county of thereafter called "the said purchaser," of the one part, and the Commissioners of Church Temporalities in Ireland, thereafter called "the said Commissioners," of the other part, reciting that the said purchaser had agreed with the said Commissioners for the purchase of the fee-simple of the lands and premises therein and hereinafter mentioned and described, at or for the price or sum of And that the said Commissioners, pursuant to the powers in them vested by "The Irish Church Act, 1869," had, at the request of the said purchaser, agreed to credit the said purchaser with the sum of portion of said purchase-money, upon having the payment thereof secured in manner therein mentioned, and further reciting as therein, it was witnessed that the said purchaser, for the considerations therein, granted and released unto the said Commissioners, their successors and assigns, all that with the rights, members, and appurtenances thereto belonging, as then in possession of the said purchaser, to have and to hold the said lands and premises unto the said Commissioners, their successors and assigns for ever, subject to the proviso for redemption therein contained. And the execution of the said deed and of this memorial respectively by is witnessed by

Signed and Sealed by the said }
in presence of }

The said maketh oath and saith that he is a subscribing witness to the deed of which the foregoing is a memorial, and also to this memorial. Saith he saw said deed and this memorial respectively duly executed by the said Saith the name " " subscribed as a witness to said deed, and this memorial respectively is his this deponent's proper name and handwriting.

Sworn before me this day of one thousand eight hundred and seventy- at in the county of a
Commissioner of Her Majesty's High Court of Chancery
in Ireland for taking affidavits in and for said county.

} Commissioner.

No. 9.—FORM of ORDER VESTING BURIAL GROUNDS in POOR LAW GUARDIANS.

It is this day ordered by the Right Honorable the Commissioners of Church Temporalities in Ireland, pursuant to the powers vested in them by "The Irish Church Act, 1869," that the several burial grounds specified in the schedule hereto, situate in the Poor Law Union of do vest in the Guardians for the time being of the said Poor Law Union, to be held by such Guardians for the same purposes and subject to the same rules and regulations as if the said burial grounds were burial grounds purchased or taken by such guardians being a burial board under the provisions of the Burial Act (Ireland), 1856, and the statutory amendments thereof for the time being, but without prejudice to such rights of burial as may be subsisting therein at the date of this order, or may be hereafter declared, to subsist therein by Act of Parliament. And we, the said Commissioners, do hereby vest the said burial grounds in the said Guardians of the said Poor Law Union accordingly.

In witness whereof the said Commissioners have hereunto affixed their corporate seal.

SCHEDULE.

Name of Burial Ground.	Where Situate.	
	Diocese.	Benefice or Parish.

No. 10.—FORM of ORDER VESTING ECCLESIASTICAL RESIDENCE.

WHEREAS the Representative Church Body, has on the day of 187 applied to the Commissioners of Church Temporalities in Ireland to vest in them the ecclesiastical residence of the benefice of in the diocese of and which ecclesiastical residence had, at the time of the passing of "The Irish Church Act, 1869," been occupied as a residence by the ecclesiastical person performing or aiding in the performance of the services in the church of the said benefice (and which church has been duly vested in the Representative Body of the said church in pursuance of the said Act).

Whereupon, and in consideration of the sum of being the amount of the building charge affecting the said benefice (or of ten times the annual value of the site of the said ecclesiastical residence estimated as land, and of the said garden and curtilage [as the case may be]). It is this day ordered by the Right Honorable the Commissioners of Church Temporalities in Ireland, pursuant to the powers vested in them by "The Irish Church Act, 1869," that the said ecclesiastical residence of the benefice of in the diocese of with the garden and curtilage thereto, as described in the annexed map, containing acres, roods, and perches, statute measure, or thereabouts, situate in the barony of

and county of do vest in the Representative Church Body, and the said Commissioners do hereby vest the same in the said Representative Church Body accordingly. In witness whereof the said Commissioners of Church Temporalities in Ireland have hereunto affixed their corporate seal the day and year first above written.

No. 11.—FORM OF ORDER VESTING ADDITIONAL LANDS WITH
ECCLESIASTICAL RESIDENCE.

WHEREAS by order of the Right Honorable the Commissioners of Church Temporalities in Ireland, bearing date the day of 187 the ecclesiastical residence of in the diocese of was, pursuant to the provisions of "The Irish Church Act, 1869," duly vested in the Representative Church Body. And whereas the said Representative Church Body has applied to the said Commissioners to vest in them a further portion of the glebe land of the said benefice, same being land usually occupied with the said ecclesiastical residence. And whereas the said further portion of land exceeds ten acres. And whereas the said Commissioners are of opinion that for the convenient enjoyment of the said house or residence, and by reason of the severance which would otherwise take place, the said additional quantity of land should be granted.

Whereupon it is this day ordered by the Right Honorable the Commissioners of Church Temporalities in Ireland, pursuant to the powers vested in them by "The Irish Church Act, 1869," and in consideration of the sum of paid by the said Representative Church Body to the said Commissioners of Church Temporalities in Ireland, that all that and those that part of the glebe lands of in the diocese of containing acres, roods, and perches, or thereabouts, as described in the annexed map, situate, lying, and being in the barony of and county of do vest in the Representative Church Body, and the said Commissioners do hereby vest same accordingly.

In witness whereof, the said Commissioners of Church Temporalities in Ireland, have hereunto affixed their corporate seal the day and year first above written.

No. 12.—FORM OF ORDER VESTING RENTED GLEBES IN THE
REPRESENTATIVE CHURCH BODY.

WHEREAS by deed dated the day of 187 , all that and those were granted as a glebe for the benefice of in the diocese of to the incumbent thereof and his successors for ever, subject to a rent of per annum, payable as therein. And whereas there has been erected an ecclesiastical residence upon said glebe lands, which had at the time of the passing of "The Irish Church Act, 1869," been occupied as a residence by the ecclesiastical person performing or aiding in the performance of the services in the church of said benefice, being a church which has been duly vested in the Representative Church Body pursuant to the provisions of said Act. And whereas the Representative Church Body have applied to the Commissioners of Church Temporalities in Ireland, that the said ecclesiastical residence, with the garden and curtilage, should be vested in them; and also, that by reason of the aforesaid head-rent, and in order to the convenient enjoyment of said residence, and to avoid severance, the entire of the lands included in the aforesaid grant should also be vested in them as additional lands, pursuant to the provisions of

said Act, at and for a price or sum, which is ascertained by deducting the capitalized value of the head-rent from the aggregate of the statutable price of the residence, garden, and curtilage, and the price agreed upon for said additional lands.

Whereupon, and in consideration of the sum of being the price estimated in manner aforesaid, it is this day ordered by the Right Honorable the Commissioners of Church Temporalities in Ireland, pursuant to the powers vested in them by "The Irish Church Act, 1869," that all and singular the lands granted by the aforesaid deed, and heretofore by virtue thereof, used as a glebe for the said benefice, with the ecclesiastical residence and garden and curtilage erected and situate thereon, in such manner and for such estate as the same are now vested in the said Commissioners, do vest in the Representative Church Body, and the said Commissioners do hereby grant and vest the same in the said representative Church Body accordingly, but subject to the rents, covenants, and conditions in the said deed reserved and contained upon the grantee's part to be paid and performed. In witness whereof the said Commissioners of Church Temporalities in Ireland have hereunto affixed their corporate seal the day and year first above written.

No. 13.—FORM of ORDER MERGING TITHE RENT-CHARGE in consideration of a CASH PAYMENT.

Diocese of

Benefice of

WHEREAS in the county of as owner of the lands, hereditaments, and premises hereinafter described and mentioned, liable to the payment of the annual sum of for rentcharge, in lieu of tithes issuing out of said lands. And whereas the said under the provisions of "The Irish Church Act, 1869," and "The Irish Church Act, 1869, Amendment Act, 1872," hath proposed to the Commissioners of Church Temporalities in Ireland to purchase the said rent-charge in lieu of tithes at and for the price or sum of same being twenty-two and a-half times the amount of said rent-charge, less the average poor's rate, and hath lodged the said sum of the amount of said purchase-money, in the Bank of Ireland, to the credit of "The Cash Account" of the said Commissioners: Now we, the Commissioners of Church Temporalities in Ireland, under the authority of the said Acts, and in consideration of the said sum of so paid by the said as aforesaid, do hereby order and declare that the said annual rent-charge of do merge in the said lands of and county of and the said Commissioners do hereby merge and extinguish the same accordingly. In witness whereof the said Commissioners of Church Temporalities in Ireland, have hereunto affixed their corporate seal the day and year first above written.

No. 14.—FORM of ORDER MERGING TITHE RENT-CHARGE in consideration of a TERMINABLE ANNUITY.

Diocese of

Benefice of

WHEREAS in the county of as owner of the lands, hereditaments and premises, hereinafter described and mentioned, is liable to the payment of the annual sum of for rent-charge, in lieu of tithes issuing out of said lands: And whereas the said under the provisions of "The

Irish Church Act, 1869, Amendment Act, 1872," hath proposed to the Commissioners of Church Temporalities in Ireland to purchase the said rent-charge, and hath applied to the said Commissioners by order to declare his purchase-money to be payable by instalments, and the said lands to be accordingly charged as from the 1st day of 187 for the term of years thence next ensuing, with an annual sum to be calculated as therein mentioned: And whereas the said Commissioners have, pursuant to the provisions of the said Act, calculated the said purchase-money to be the sum of and have also calculated the annual sum to be paid in lieu of said purchase-money, as by said Act is directed, and have ascertained same to be the annual sum of . Now we, the said Commissioners of Church Temporalities in Ireland, under the authority of the said Act passed in the 35th and 36th years of the Reign of Her Majesty Queen Victoria, chap. 90, shortly intituled "The Irish Church Act, 1869, Amendment Act, 1872," and in consideration of the said sum of to be paid as hereinafter mentioned, do hereby order and declare that the said annual rent-charge in lieu of tithes of do merge in the said lands of and county of or other the lands charged with said rent-charge—and we, the said Commissioners, do hereby merge and extinguish the same accordingly. And we do hereby further order and declare that the said annual sum of shall be issuing and payable out of the said lands for the period of years to be computed from the said 1st day of 187 and shall be paid and payable thereout by annual payments, on every 1st day of in every year during said period, and that the first annual payment shall be made on the 1st day of 187. In witness, &c.

No. 15.—FORM OF INDORSEMENT ON ORDER MERGING TITHE-RENT-CHARGE in consideration of ANNUITY when OUTSTANDING INSTALMENTS are REDEEMED.

IRISH CHURCH TEMPORALITIES COMMISSION.

day, the day of 187

WHEREAS has this day paid the sum of into the Bank of Ireland, to the credit of the Commissioners of Church Temporalities in Ireland, being the value of instalments, in lieu of purchase money of tithe rent-charge which have not yet become due and payable under the terms of the within merging order. It is ordered by the said Commissioners that the sum aforesaid be accepted in full discharge and satisfaction of the said instalments. In witness whereof the said Commissioners of Church Temporalities in Ireland have hereunto affixed their corporate seal.

No. 16.—FORM OF ORDER APPORTIONING TITHE RENT-CHARGE ANNUITY.*

Diocese of

Benefice of

WHEREAS the owner (or legal representative of the owner) of the lands mentioned in the schedule hereto, which are chargeable with the annual rent-charge substituted by merging order under seal of the Commissioners of Church Temporalities in Ireland for the tithe rent-charge formerly payable out of the said lands, has stated in writing to the said Commissioners that a division of the said lands has taken place, but not

* NOTE.—The form of order for apportioning tithe rent-charge not converted into an annuity is much the same, *mutatis mutandis*.

by a lease or demise at rack-rent, and has applied in writing to the said Commissioners that the said annual rent-charge shall be divided and apportioned upon parts of such lands in manner in his said application mentioned. Now we, the Commissioners of Church Temporalities in Ireland, having considered the said application, do hereby order and declare that the said annual rent-charge shall from and after the 1st day of 187 , be divided and apportioned in such manner and proportions as is set forth in the schedule hereto. In witness whereof we, the said Commissioners of Church Temporalities in Ireland, have hereunto affixed our corporate seal the day and year first above written.

SCHEDULE.

Name of Owner as per Merging Order—.					Annual Rent-charge as per Merging Order, £ : .		
Townlands.	Parish.	County.	Owner.	Contents.	Annual Rent-charge.		
				A. R. P.	£	s.	d.

PRINCIPAL FORMS OF PROCEDURE under COMPENSATION and COMMUTATION SECTIONS of the "IRISH CHURCH ACT, 1869."

No. 17.—GENERAL FORM of DECLARATION.

I of in the county of now holding the office of do solemnly and sincerely declare that, to the best of my knowledge, information, judgment, and belief, the claim, statement, and particulars above contained are true and correct in every particular therein stated and set forth, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act made and passed in the 5th and 6th year of the reign of His Majesty King William IV., intituled "An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of Voluntary and Extra-judicial Oaths and Affidavits."

Dated this day of 187 .

[Signature of Claimant making Declaration.]

Made and subscribed before me this day of 187 .

[Signature of Magistrate.]

J.P., for the county of

No. 18.—GENERAL FORM of NOTICE that a CONDITIONAL ORDER has been made by one of the COMMISSIONERS of CHURCH TEMPORALITIES in IRELAND.

Take notice that _____, one of the Commissioners of Church Temporalities in Ireland, having investigated the claim of _____, as _____, of _____, in the diocese of _____, has ordered and declared as follows [*state order*].

And take notice that if you be dissatisfied with the said order you may, within one month from the date hereof, apply to the said Commissioners to vary or rescind said order, or you may give notice that you require your case to be heard by the three Commissioners.

Dated this _____ day of _____ 18 ____.

To _____

No. 19.—FORM of NOTICE of APPEAL to the THREE COMMISSIONERS.

Diocese of _____ Parish of _____

To the Commissioners of Church Temporalities in Ireland.

Take notice that I _____ of _____ in the county of _____ post town [*Here state the dignity or office held*], being dissatisfied with the order made by _____ under the _____ section of the "Irish Church Act, 1869," whereby I was declared entitled to the sum of £ _____ do hereby, as empowered by the 4th section of said Act, require that my case shall be heard by the three Commissioners.

Dated this _____ day of _____ 18 ____.

(Signed), _____

No. 20.—FORM of NOTICE of APPEAL to ONE COMMISSIONER.

Diocese of _____ Parish of _____

To the Commissioners of Church Temporalities in Ireland.

Take notice that I _____ of _____ in the county of _____ post town [*Here state the dignity or office held*], being dissatisfied with the order made by _____ under the _____ section of the "Irish Church Act, 1869," do hereby give notice that I shall apply to the said Commissioner to vary or rescind said order.

Dated this _____ day of _____ 18 ____.

(Signed), _____

No. 21.—FORM of NOTICE of APPOINTMENT of DAY for HEARING APPEAL.

Diocese of _____ Parish of _____

In the matter of the claim of _____ under section _____ "Irish Church Act, 1869."

You having required your case to be heard by the three Commissioners, are hereby required to take notice that the _____ day of _____ is appointed for the hearing of the same, and that the said Commissioners will on that day, in their office, 24, Upper Merrion-street, in the city of Dublin, at the hour of _____ sit to hear and determine the same; on which day you will be at liberty to appear in person or by counsel or attorney as you may think proper.

Dated this _____ day of _____ 18 ____.

To _____

No. 22.—FORM of APPLICATION for ANNUITY under 14th Section,
by ECCLESIASTICAL PERSONS (Curates excepted).

Diocese or See of

Benefice of

To the Commissioners of Church Temporalities in Ireland.

Claim of of in the county of post town

Return of the Amount of Yearly Income of which the Claimant will be
deprived by virtue of "The Irish Church Act, 1869," in respect of the
See of or Benefice of

From tithe rent-charge, particulars whereof are annexed hereto.

£ s. d.

Gross amount of which claimant will be deprived, £

Deductions.

£ s. d.

Poor rates, on an average of the last five years, . . .

Salary of curate, . . .

Tax payable to the Ecclesiastical Commissioners for Ire-
land, . . .

Diocesan schoolmaster, . . .

Other outgoings, . . .

Total deductions, . . . £

Net income of which claimant will be deprived, . £

[A prospective increase of said net income will arise by the falling in or cessation
of the following mentioned charges, under the circumstances hereinafter set forth,
viz. :—(The amount and special circumstances referred to, to be stated.)]

The said claimant seeks to obtain the order of the said Commissioners,
pursuant to the 14th section of said Act, declaring that the yearly income
of which he will be deprived by said Act amounts to the sum of £

Dated this day of 1869.

[Signature of Claimant.]

Particulars of Rent-charge payable to in lieu of Composition for the
[state nature of Tithes] Tithes of the Parish of Diocese of

Name of Town-lands chargeable.	County.	Name, Residence, and Post Town of person liable to Rent-charge.	Name, Residence, and Post Town of person who last paid the Rent-charge.	Yearly Amount of Rent-charge.		
				£	s.	d.

Dated this day of 18

[Signature of Claimant.]

[The claim and rental to be verified by a declaration as in Form
No. 17.]

No. 23.—FORM of APPLICATION for COMPENSATION for MARRIAGE and BURIAL FEES for CASES falling within the RULINGS of the THREE COMMISSIONERS, made in the case of the Archdeacon of Dublin, and others, on the 28th October, 1870.*

Diocese of Benefice of Church of
Marriage Fees.

I certify that on an average of years, the fees received for marriages, as posted up in church or vestry, have been as follows, viz. :—

Copy of Table of Fees posted up in Church or Vestry for Marriages.									How Solemnized.	Annual Average Number of Marriages under each head.	Annual Average Amount of Fees received by Incumbent.†		
Fee for Incumbent.			Fee for Parish Clerk.			Fee for Sexton.							
£	s.	d.	£	s.	d.	£	s.	d.			£	s.	d.
									By Licence,				
									By Banns,				
									Total,				

[Signature of Incumbent.]

Burial Fees.

I also certify that the burial ground of is separated from the above church by§ and that on an average of|| years, the fees received for burials therein have been as follows, viz. :—

Copy of Table of Fees.									Annual Average Number of Burials.	Annual Average Amount of Fees received by Incumbent.		
Fee to Incumbent.			Fee to Clerk.			Fee to Sexton.						
£	s.	d.	£	s.	d.	£	s.	d.		£	s.	d.

[Signature of Incumbent.]

[Declaration as in Form No. 17.]

Form of Declaration to be made in Verification of above Claim.

I of in the county of do solemnly and sincerely declare, that, for years last past the fees for marriage (or burial) mentioned in the annexed statement of the Rev. have been duly and regularly demanded, and paid to the incumbent of the parish of and that a table of such fees has been publicly posted up for years last past. [*Here follows the ordinary declaration in Form No. 17.*]

* See leading cases, page 105.

† Here enter number of years average taken.

‡ This is to be verified by a declaration.

§ Here state how separated.

|| Here enter number of years average taken.

No. 24.—FORM of APPLICATION to COMMUTE by an INCUMBENT, under the 23rd section of "The Irish Church Act, 1869."

Diocese of _____ Benefice of _____
 Claim of the Rev. _____ of _____ in the county of _____ post town _____ in-
 cumbent of the above benefice.

I hereby apply to the Commissioners of Church Temporalities in Ireland, pursuant to the 23rd section of "The Irish Church Act, 1869," to commute for a capital sum the annuity of £ _____ which is secured to me by an order of the Commissioners, made under the 14th section of the Act; and I further apply to the said Commissioners to commute for a capital sum my life interest in the ecclesiastical property mentioned below, the amount of such estimated value to be paid to the Representative Church Body charged with the payment of the gross annuity in respect of which the capital sum is to be paid.

I hereby declare that I was _____ years of age on the _____ day of 18 _____ as verified by* _____ and I further declare that the particulars given in the accompanying rental, amounting to £ _____ are true.

I further declare that the above-mentioned annuity and life interest in said benefice are not incumbered.†

Sources of Income. £ s. d.

Annuity declared under 14th section of "Irish Church Act,"

Rents, as per rental,

Renewal Fines,

†Glebe house, garden, and curtilage (unless same is to be excluded from commutation, pursuant to section 67 of "Irish Church Act,")

†Glebe land in claimant's actual occupation (unless same is to be excluded from commutation, under section 67 of "Irish Church Act,")

§Interest on £ _____ Government or other stocks,

Other sources, viz.:—

Total income, £

Deductions from above Sources of Income. £ s. d.

||Poor rate allowed tenants of glebe lands,

||Poor rate paid on glebe house, garden, and curtilage,

||Poor rate paid on glebe land in claimant's actual occupation,

||County cess and other taxes on glebe house, garden, and curtilage,

||County cess and other taxes on glebe land in occupation,

**Quit or crown rent,

**Titherecharge,

††Rent of glebe,

Total deductions, £

* Here state baptismal certificate, or other evidence of age, which must accompany this claim.

† If incumbered, the names and addresses of the incumbrancers should be here stated.

‡ State annual value. § Give description, and in whose name invested.

|| Average of last five years, as per schedule annexed.

** If not already deducted, in estimate of annuity, under 14th section.

†† State to whom payable.

Terminable Charges.*

£ s. d.

Annual instalment in repayment of loan from late Board of First Fruits,

† Annual instalment payable to Commissioners of Public Works, in repayment of Drainage or Improvement Loan, .

Annual payment on account of mortgage loan under Napier's Act,

[Signature of Claimant.]

[Declaration as in Form No. 17.]

N.B.—A certificate from the Representative Church Body, showing its assent to the proposed commutation, must accompany this claim.

This claim and accompanying rental must be forwarded by the claimant in duplicate.

RENTAL.

Particulars of Rent payable to out of the Glebe Lands in the Parish
of in the Diocese of , and County of

Town-land.	Poor Law Union.	Electoral Division.	Tenants' Names.	Residence and Post Town.	Tenure.	Gale Days.	Annual Rent.		
							£	s.	d.
						Total, £			

Dated this day of , 18

[Signature of Claimant.]

* The annual reduction of annuity on account of these items will be estimated by the Commissioners.

† A certificate from Commissioners of Public Works, showing when instalment will cease, must be forwarded.

POOR RATES, COUNTY CESS, AND OTHER TAXES.

SCHEDULE OF PARTICULARS FOR THE FIVE YEARS ENDING 1ST JANUARY, 1871.

YEAR.	POOR RATES.						COUNTY CESS AND OTHER TAXES.					
	Amount allowed Tenants of Glebe Lands.			Amount paid on Glebe House, Garden, and Curtilage.			Amount paid on Glebe Land in Claimant's occupation.			Amount paid on Glebe House, Garden, and Curtilage.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
1866,												
1867,												
1868,												
1869,												
1870,												
Total,												
Average of five years, .												

[Signature of Claimant.]

FORM of CERTIFICATE to be procured by CLAIMANT from the REPRESENTATIVE CHURCH BODY, and forwarded, with Claim for Commutation, to the COMMISSIONERS of CHURCH TEMPORALITIES in IRELAND.

Diocese of

Benefice of

This is to certify that the Representative Church Body assent to the proposed commutation of the annuity and life interest of pursuant to the section of "The Irish Church Act, 1869." ---

Dated at Dublin, this day of 187

——— *Secretary of the Representative Church Body.*

INCUMBRANCER'S FORM of CONSENT to COMMUTATION.

Diocese of

Benefice of

As an incumbrancer on the above Benefice, I hereby consent to the Rev. commuting his entire income connected with the said benefice, under the provisions of the 23rd section of "The Irish Church Act, 1869."

Dated this day of 187

——— *Signature.*

——— *Address and Post Town.*

No. 25.—FORM of APPLICATION for ANNUITY by CURATE.

Diocese of

Parish of

To the Commissioners of Church Temporalities in Ireland.

Claim of the Rev. of in the county of post town

1. I claim to be deemed a permanent curate of the parish of
diocese of
2. Date of my appointment
3. I was appointed by
4. The total amount of my annual salary is £
5. Derived from the following sources:—

£ s. d.

6. The time of my actual service as curate has been

7. The nature of the duties which I discharge is

[Claimant is to state whether the incumbent is non-resident, infirm, or otherwise incapable, and whether the incumbent has been in the habit of employing a curate, and for how long.]

8. I claim an order under the 15th section of the Irish Church Act, 1869, declaring the amount of my yearly income at £

[Declaration as in Form No. 17.]

No. 26.—FORM of APPLICATION for GRATUITY by a CURATE.

Diocese of

Parish of

To the Commissioners of Church Temporalities in Ireland.

Claim of the Rev. of in the county of post town

1. The time of my actual service as curate has been
2. Date of my appointment to the parish
3. I was appointed by
4. The amount of my annual salary was £ derived from the following sources:—
5. I claim, as compensation for the loss of my curacy, £

[Declaration as in Form No. 17.]

No. 27.—FORM of APPLICATION to COMMUTE by a CURATE, under the 23rd section of "The Irish Church Act, 1869."

Diocese of

Parish of

Claim of the Rev. of in the county of post town curate of the above parish.

I hereby apply to the Commissioners of Church Temporalities in Ireland, pursuant to the 23rd section of "Irish Church Act, 1869," to commute for a capital sum the annuity of £ which is secured to me by an order of the Commissioners, made under the 15th section of the said Act—such capital sum to be paid to the Representative Church Body, charged with the payment of the gross annuity in respect of which the capital sum is to be paid.

I hereby declare that I was years of age on the day of 18 as verified by*

I further declare that the above mentioned annuity is not incumbered.†

Dated this day of 187

[Signature of Claimant.]

[Declaration as in Form No. 17.]

CERTIFICATES from INCUMBENT and REPRESENTATIVE CHURCH BODY ASSENTING to PROPOSED COMMUTATION.

No. 1.

Form of Consent required pursuant to 15th section of "The Irish Church Act, 1869," in those cases where a deduction has been made from Annuity of Incumbent for "Salary of Curate, under 14th section of the said Act."

I hereby consent to the proposed commutation of the annuity of the Rev. whose salary has been deducted from my annuity as incumbent of the benefice of in the diocese of pursuant to the 14th section of "The Irish Church Act, 1869."

Dated this day of 18

[Signature of Incumbent.]

[Address and Post Town]

* Here state baptismal certificate, or other evidence of age, which must accompany this claim.

† If incumbered, the names and addresses of the incumbrancers should be here stated.

No. 2.

Form of consent required from Representative Church Body, pursuant to 23rd section of "The Irish Church Act, 1869."

I hereby certify that the Representative Church Body assent to the proposed commutation of the annuity of the Rev. as curate of the benefice of in the diocese of in accordance with the terms set forth in annexed claim.

Dated at 52, St. Stephen's-green, Dublin, this day of 18

Secretary to the Representative Church Body.

No. 28.—FORM of APPLICATION for ANNUITY by SCHOOLMASTER of
DIOCESAN or DISTRICT SCHOOL in IRELAND.

Diocese of

To the Commissioners of Church Temporalities in Ireland.

Claim of of in the county of post town .

1. The designation of the school of which I am master is in the diocese of

2. Date of my appointment

3. My yearly salary is £ derived under a warrant of the Lord Lieutenant in Council, dated day of the particulars of which are as follows:—

[The particulars of the amount, and the names of the persons by whom payable, should be here set forth.]

4. I claim an order under the 16th section of "The Irish Church Act, 1869," declaring the amount of my yearly salary at £

[Declaration as in Form No. 17.]

No. 29.—FORM of APPLICATION to COMMUTE by DIOCESAN SCHOOL-MASTERS, under the 16th section of "The Irish Church Act, 1869," extended by 35 & 36 Vic., cap. 90, sec. 3.

Diocese of

To the Commissioners of Church Temporalities in Ireland.

Claim of of in the county of post town now holding the office of diocesan schoolmaster of the diocese of

I hereby apply to the Commissioners of Church Temporalities in Ireland, pursuant to the 3rd section of "The Irish Church Act, 1869, Amendment Act, 1872," to commute for a capital sum the annuity of £ which is secured to me by an order of the Commissioners made under the 16th section of "The Irish Church Act, 1869," such capital sum to be paid to me, and to the Representative Church Body, in the proportions agreed on between us.

I hereby declare that I was years of age on the day of 187 as verified by *

[Declaration as in Form No. 17.]

* Here state baptismal certificate. or other evidence of age, which should accompany this claim.

Form of consent of the Representative Church Body.

I certify that the Representative Church Body consent to the proposed commutation of the annuity of now holding the office of diocesan schoolmaster of the diocese of in accordance with the terms set forth in the annexed claim.

Dated at 52, St. Stephen's-green, Dublin, this day of 187

Secretary to the Representative Church Body.

No. 30.—FORM of APPLICATION for ANNUITY by CLERKS, SEXTONS, and other HOLDERS of OFFICE of a FREEHOLD or QUASI FREEHOLD CHARACTER connected with any CATHEDRAL, PARISH, CHAPELRY, or CHAPEL of EASE in IRELAND.

Diocese of Parish of

To the Commissioners of Church Temporalities in Ireland.

Claim of of in the county of post town

1. I hold the office of
2. Tenure of office
3. Name of parish and name of diocese
4. Date of my appointment
5. Length of service
6. Amount of my annual salary £
7. Allowances and the various sources thereof, viz. :—

Total amount, £

8. I claim an order, pursuant to section 16 of "The Irish Church Act, 1869," declaring the amount of my yearly salary, and of the emoluments of which I will be deprived by the Act, at the sum of £

Dated this day of 18

[Declaration as in Form No. 17.]

No. 31.—FORM of APPLICATION for a GRATUITY by CHURCH OFFICERS for persons holding Appointments on 1st January, 1871,* connected with any CHURCH or CHAPEL in IRELAND, and not entitled to COMPENSATION under the 16th section of "The Irish Church Act, 1869."

Diocese of Parish of

To the Commissioners of Church Temporalities in Ireland.

Claim of of in the county of post town

1. I hold the office of
2. Name of church or chapel
3. Date of my appointment to said office, day of 18
4. Length of service
5. Amount of my annual salary, £
6. I claim a gratuity, pursuant to section 17 of "The Irish Church Act, 1869," of £ being the amount of my salary.

[Declaration as in Form No. 17.]

* NOTE.—No person appointed to any office since 1st January, 1869, is entitled to claim under the 17th section of "The Irish Church Act, 1869."

Certificate to be Filled and Signed by Incumbent.

I certify that held the office of in the church (or chapel) of
in the diocese of on the 1st day of January, 1871; and that the said
claimant held such office for the period of years prior to that date,
having been appointed on the day of 18 and I further certify
that the amount of claimant's salary was £ per annum.

Dated this day of 1871.

[Signature of Clergyman.]

[Address and Post Town.]

No. 32.—FORM of APPLICATION to COMMUTE by CLERKS, SEXTONS,
&c., under the 16th section of the "Irish Church Act, 1869," as
extended by the Act 35 & 36 Vic., c. 90, s. 3.

Diocese of Parish of
Cathedral, Church, or Chapel of
Claim of of in the county of post town now holding
the office of of the above cathedral, church, or chapel.

I hereby apply to the Commissioners of Church Temporalities in Ire-
land, pursuant to the 16th section of the "Irish Church Act, 1869," to
commute for a capital sum the annuity of £ which is secured to me
by an order of the Commissioners made under the same section of the
said Act, such capital sum to be paid to me and to the Representative
Church Body in the proportions agreed on between us.

I hereby declare that I was years of age on the day of
18 as verified by*

Dated this day of 187 .

——— Signature of Claimant.

[Declaration as in Form No. 17.]

CERTIFICATES.

Form of Consent required by Clerks, Sextons, or other Officers, from the
Ecclesiastical Person under whom they may be serving at the time of
Commutation, pursuant to the 16th section of the "Irish Church Act,
1869."

[N.B.—This consent may be given at any time before commutation
money is paid, in case it is not possible for the same to accompany claim.]

I hereby consent to the proposed commutation of the annuity of
now holding the office of of the cathedral, church, or chapel of
in the parish of and diocese of as set forth in the annexed claim.

Dated this day of 187 .

——— Signature of Ecclesiastical Person.

——— Dignity held by Ecclesiastical Person.

——— Address.

——— Post Town.

* Here state baptismal certificate, or other evidence of age, which must accom-
pany this claim.

Form of Consent required from the Representative Church Body, pursuant to the 16th section of the "Irish Church Act, 1869."

I certify that the Representative Church Body consent to the proposed commutation of the annuity of now holding the office of of the cathedral, church, or chapel of in the parish of and diocese of in accordance with the terms set forth in the annexed claim.

Dated at 52, St. Stephen's-green, Dublin, this day of 187 .

——— *Secretary to the Representative Church Body.*

No. 33.—FORM of APPLICATION for COMPENSATION by a LAY PATRON.

Diocese of

Parish of

To the Commissioners of Church Temporalities in Ireland.

Claim of in the county of post town .

I am sole patron (or in conjunction with), I am patron of the benefice of .

The said benefice is of the annual value of £ .

The said benefice is now full of the Rev. aged years (or is now vacant).

I claim the right to the next presentation or nomination thereto (or the next but one, as the case may be).

I claim the sum of £ as compensation, by reason of my right aforesaid being affected by the provisions of the "Irish Church Act, 1869."

[Declaration as in Form No. 17.]

[This claim is to be accompanied by an abstract of title and copies of documents in support thereof.]

No. 34.—APPLICATION to COMMUTE by NON-CONFORMIST MINISTERS, under the 39th SECTION of the "IRISH CHURCH ACT, 1869."

I minister of the congregation of in the presbytery of hereby apply to the Commissioners of Church Temporalities in Ireland to commute for a capital sum the annuity of £ which is secured to me under the 38th section of the "Irish Church Act," and I request that such capital sum may be paid to the following persons, namely:—

who have been appointed trustees, in pursuance of the 39th section of the Act, by myself and by the [General Assembly, or Synod, or Presbytery (as the case may be)].

I further affirm that I am the person entitled to the above mentioned annuity, and that the said annuity is not in any way incumbered. And I also declare that I was years of age on the day of 18 , as verified by the certificate hereunto annexed. [Certificate of baptism or other evidence of age to be annexed.]

——— *Signature.*

——— *Address.*

[Declaration as in Form No. 17.]

I hereby certify that the above mentioned trustees were appointed, in pursuance of the 39th section of the "Irish Church Act," by the Rev. and by the [This certificate to be signed by the Moderator or other officer of the General Assembly, or Synod, or Presbytery (as the case may be), to which the applicant belongs.]

——— *Signature.*

No. 35.—FORM of APPLICATION for COMPENSATION under SECTION 45, by VICARS-GENERAL, REGISTRARS, &c.

Diocese of .

To the Commissioners of Church Temporalities in Ireland.

Claim of of in the county of post town .

I hold the office of in the diocese of .

The fees or other emoluments of said office for three years ending the 1st day of January, 1869, have been as follows, viz. :—

[Here state separately the various sources of revenue, and the amount respectively in each of the three years].

If the claimant be a registrar, he is to state if the duty has been discharged by deputy.

I claim the annual sum of £ , being the average of the said three years, under the 45th section of the “Irish Church Act, 1869.”

Dated this day of 18 .

Signature of Claimant.

[Declaration as in Form No. 17.]

No. 36.—FORM of APPLICATION to COMMUTE by VICARS-GENERAL, REGISTRARS, &c.

To the Commissioners of Church Temporalities in Ireland.

Claim of of in the county of post town formerly holder of the office of .

I hereby apply to the Commissioners of Church Temporalities in Ireland, pursuant to the 4th section of the “Irish Church Act, 1869 Amendment Act, 1872,” to commute for a capital sum the annuity of £ which is secured to me by an order of the Commissioners made under the 45th section of the “Irish Church Act, 1869,” such capital sum to be paid to me in satisfaction of the said annuity.

I hereby declare that I was years of age on the day of 187 as verified by*

[Declaration as in Form No. 17.]

No. 37.—FORM of APPLICATION of DEPUTY REGISTRAR.

Diocese of .

To the Commissioners of Church Temporalities in Ireland.

Claim of of county of post town .

I discharged the duty of the office of Registrar for five years before the passing of the “Irish Church Act, 1869.” I was appointed to discharge such duty by . I received as salary the sum of £ . I discharged said duty on behalf of . I claim as compensation for the loss of my office, under the 45th section of the said Act, the sum of £

[Declaration as in Form No. 17.]

* Here state baptismal certificate, or other evidence of age, which should accompany this claim.

No. 38.—FORM of APPLICATION of CLERKS under SECTION 45.

Diocese of .

To the Commissioners of Church Temporalities in Ireland.

Claim of of county of post town .

I was employed as clerk, continuously for five years immediately before the passing of the "Irish Church Act, 1869," in the Registry Office. My salary was £ . I was appointed by . I claim as compensation for the loss of emolument to me, by reason of the passing of the said Act, the sum of £ .

[Declaration as in Form No. 17.]

No. 39.—FORM of APPLICATION for COMPENSATION under SECTION 46.

To the Commissioners of Church Temporalities in Ireland.

Claim of of in the county of post town .

I hold the office of and I claim to be entitled to the right of succession in the benefice of and my said right is derived as follows:—

[The grounds of the claimant's right should be fully set forth.]

and I claim the sum of £ as compensation by reason of my right aforesaid being affected by the provisions of the "Irish Church Act, 1869."

Dated this day of 18 .

[Declaration as in Form No. 17.]

No. 40.—FORM of APPLICATION for BUILDING CHARGE under SECTION 24, of the "IRISH CHURCH ACT, 1869."

Diocese of Benefice of

To the Commissioners of Church Temporalities in Ireland.

WHEREAS I incumbent of the above benefice, have commuted, under the 23rd section of the said Act, my life interest, including my house:

Now, I the said do hereby claim to be entitled, under the 24th section of the said Act, to a building charge upon the said house, amounting to the sum of £ and I request the Commissioners of Church Temporalities in Ireland to pay to me the amount of said charge.

The following are the facts on which I ground this application:—

1. The certificate* of charge, establishing the above mentioned building charge, was granted on the day of 18 under the Act of
2. The original amount of the charge was £ and was approved the day of 18 .
3. The certificate was duly registered in the diocesan registry.
4. I am the in succession from the builder (or improver).
5. The amount paid by me to my predecessor (or his representatives) on account of such charge was £ .
6. I have enjoyed the use of the glebe house for years.
7. The sum necessary, by way of dilapidations, to put the premises into tenantable order, may be ascertained by†

[Declaration as in Form No 17.]

* The certificate and memorial must accompany this claim.

† A survey of premises, or the ten per cent. scale, as the case may be.

No. 41.—FORM of DECLARATION to be made by the Widows or Next of Kin of Deceased Persons who have died intestate, or on behalf of whom Letters of Administration have not been taken out, and whose Assets at the date of their Decease did not amount to the value of £100. (*Vide* 31 & 32 *Vic.*, *cap.* 90.)

(a) I of in the county of post town do solemnly and sincerely declare that I am the (b) and next of kin of (c) who held the office of and who died on the day of 187 and that I am entitled to receive the balance of (d) due to him on the day of his death. And I further declare that the total value of the assets of the deceased, including the (e) due to him at the date of his death, do not amount to the sum of £100; and I certify that the death-bed and funeral expenses of the deceased have been discharged. And I make this solemn declaration conscientiously believing the same to be true.

[*Signature of Claimant.*]

Declared before me this day of 187

[*Signature of Magistrate.*]

J.P. for the county of

We do certify that we personally know the above subscribing (f) and believe what she or he has stated is true.

(g) } *Inhabitants and householders of the parish of*

I certify that (h) and are inhabitants and householders of this parish.

Minister of the parish of

- (a) Name of Claimant.
- (b) Degree of relationship.
- (c) Name and rank of deceased.
- (d) State whether pay, pension, or life annuity.
- (e) Pay, pension, or life annuity.
- (f) Name of claimant.
- (g) Signatures of two inhabitants of the parish.
- (h) Names of ditto, ditto.

No. 42.—FORM of APPLICATION for COMPENSATION for SURRENDER of LEASE of TITHE RENT-CHARGE, under the 33rd section of the "Irish Church Act, 1869," and the 8th section of the "Irish Church Act, 1869, Amendment Act, 1872."

Queries which any person applying to the Commissioners of Church Temporalities in Ireland, for a surrender or assignment of his Lease of Tithe Rent-charge vested in them, is requested to answer.

N.B.—The existing lease is to be forwarded to the Commissioners, 24, Upper Merrion-street, Dublin, at the same time with the answers to these queries.

Queries.

1. State the name or names of the person or persons making application; and if applying on behalf of the lessee or lessees, state the name or names of the lessee or lessees in the existing lease, and whether he, she, or they is or are trustee or trustees for any other person or persons, and whom, by name, in regard of this lease

2. State for what term, and from what time the tithes or tithe rent-charge are held.

3. State what period of the term is still to come, and unexpired.

4. State the usual intervals at which the lease has been renewed.

5. State whether there have been regular renewals at the above intervals.

6. State the fine and fees properly payable on each renewal, exclusive of expense of leases.

Fine, £

Fees on fine, £

7. State the number of renewals actually made within the nine years, prior to 26th July 1869, their respective dates, and the amount of fine and fees paid on each of such renewals.

8. If it is contended that the lease had been, prior to 26th July, 1869, "renewable by custom," state the grounds on which such contention is based.

9. State the amount of the annual rent or rents now reserved under the lease.

Rent, £

Fees on rent, £

10. Is there any quit or crown rent payable in respect of these tithes?

11. State particulars of all charges and incumbrances affecting the lease; the amounts due on foot thereof, in whom same are vested, and how it is proposed to deal with same in the proposed purchase.

I have answered the above queries according to the best of my information and belief.

Dated this day of 187

_____ Signature.

_____ Post town.

RENTAL.

PARTICULARS of Rent-charge payable to in lieu of Composition
for the [state nature of Tithes] Tithes of the Parish of ,
Diocese of .

Name of Town-lands chargeable.	County.	Name, Residence, and Post Town of person liable to Rent-charge.	Name, Residence, and Post Town of person who last paid the Rent-charge.	Yearly Amount of Rent-charge.		
				£	s.	d.

Dated this day of 18 .

[Signature of Claimant].

[The Rental to be verified by a declaration as in Form No. 17.]

PRINCIPAL FORMS OF PROCEDURE UNDER SALES' SECTIONS OF "THE IRISH CHURCH ACT, 1869."

No. 43.—FORM of PROPOSAL for the PURCHASE of TITHE RENT-CHARGE, when the PURCHASE MONEY is to be paid down, under section 7 of "The Irish Church Act, 1869," Amendment Act, 1872."

Diocese of

Benefice of*

To the Commissioners of Church Temporalities in Ireland.

I the owner [or on behalf of the owner] of the lands mentioned in the annexed schedule, which lands are charged with the rent-charge in lieu of tithes therein specified, amounting in the whole to the sum of £ do hereby apply to the Commissioners of Church Temporalities in Ireland to sell to me the said rent-charge; and I am ready to pay to the Commissioners the amount of purchase-money, when ascertained, together with the rent-charge that may be due, calculated to the date of payment of such purchase-money.

The owner was entitled to deduct for poor-rates from said rent-charge, on an average of five years preceding the passing of "The Irish Church Act, 1869" (as per schedule on last page), the sum of £ and the net rent-charge, after such deduction for poor-rates, amounts to £

Dated this day of 187

Signature, _____

Address, _____

SCHEDULE of Rent-charge in lieu of Tithes payable by _____, of _____, out of the various Denominations of Land herein mentioned, situate in the County of _____.

[N.B.—The Name and Address, with Profession or Occupation (if any), should be given in full, and in the case of a female, it should be specified whether widow, spinster, or otherwise.]

Names of Townlands as per Ordnance Survey.	Parish.	Union.	Electoral Division.	Gross Amount of Rent-charge annually payable.†		
				£	s.	d.

* A distinct proposal must be made in respect of each benefice.

† In respect of the above Benefice.

N.B.—It is not necessary to state the amount payable out of each Townland.

No. 44.—FORM of PROPOSAL for the PURCHASE of TITHE RENT-CHARGE, when the Purchase-money is to be made payable by fifty-two Annual Instalments, under section 7 of "The Irish Church Act, 1869, Amendment Act, 1872."

Diocese of

Benefice of*

To the Commissioners of Church Temporalities in Ireland.

I the owner [or on behalf of the owner] of the lands mentioned in the annexed schedule, which lands are charged with the rent-charge in lieu of tithes therein specified, amounting in the whole to the sum of £ do hereby propose to purchase the said rent-charge, pursuant to said Act, and I do hereby apply to the Commissioners of Church Temporalities in Ireland to declare by order, the amount of purchase-money, when ascertained, to be payable by fifty-two annual instalments, pursuant to the said Act, and the lands in the schedule † thereto to be accordingly charged with an annual sum, calculated pursuant to said Act, and commencing from ‡ last, and I am ready to pay to the Commissioners whatever arrears of said rent-charge may be due to them up to that date.

The owner was entitled to deduct for poor rates from said rent-charge, on an average of five years preceding the passing of "The Irish Church Act, 1869" (according to schedule † of rates set forth on last page), the sum of £ and the net rent-charge, after such deduction for poor-rates, amounts to £

Dated this day of 187

Signature, _____

Address, _____

No. 45.—FORM of PROPOSAL for the PURCHASE of TITHE RENT-CHARGE, when the Purchase-money is to be made Payable by Instalments in a number of years less than fifty-two, under section 7 of "The Irish Church Act, 1869, Amendment Act, 1872."

Diocese of

Benefice of*

To the Commissioners of Church Temporalities in Ireland.

I the owner [or on behalf of the owner] of the lands mentioned in the annexed schedule, which lands are charged with the rent-charge in lieu of tithes therein specified, amounting in the whole to the sum of £ do hereby propose to purchase the said rent-charge pursuant to said Act, and I do hereby apply to the Commissioners of Church Temporalities in Ireland to declare by order, the amount of purchase-money, when ascertained, to be payable by § annual instalments, and the lands the schedule † hereto to be accordingly charged from the 1st day of ‡ for years, with an annual sum to be calculated pursuant to said Act, and I am ready to pay to the Commissioners whatever arrears of said rent-charge may be due up to that date.

* A distinct proposal must be made in respect of each benefice.

† See Form of Schedule appended to Form No. 43.

‡ Here insert last gale day, May or November.

§ Here insert number of proposed instalments, which must be either ten, twenty, thirty, or forty.

I hereby certify that I have been entitled to deduct for poor-rates from said rent-charge, on an average of five years preceding the passing of "The Irish Church Act, 1869" (according to schedule * of rates set forth on last page), the sum of £ and that the net rent-charge, after such deduction for poor-rates, amounts to

Dated this day of 187

Signature, _____

Address, _____

No. 46.—FORM of OFFER of PRE-EMPTION of PERPETUITY RENTS.

Irish Church Temporalities Commission,
24, Upper Merrion-street, Dublin,

187 .

See or Dignity of

Lands of

Name of Grantee in Deed,

SIR—Whereas you are, or claim to be, owner of the above lands, subject to the perpetual yearly rent of £

Now you are hereby required to take notice that, pursuant to the 34th section of "The Irish Church Act, 1869," the Commissioners of Church Temporalities in Ireland are willing, and hereby offer, to sell to you, as such owner, the said perpetual yearly rent at and for the capital sum or price of £ sterling, the same being equal to twenty-five times the annual amount of such rent, the price fixed by the Act.

And you are hereby further required to take notice that, pursuant to said Act, you shall be deemed to have declined to accept the said offer, unless within three months from the date of this notice you accept the same in writing, and pay or secure the said purchase-money to the Commissioners, pursuant to the Act above referred to.

Be good enough to acknowledge receipt of this communication; and in case you are not now the owner of the said lands, I beg you will inform me of the name and address of the present owner.

I am, sir, your obedient servant,

DENIS GODLEY, *Secretary*.

To

NOTE.—Should this offer be accepted, the rent must be paid up to the date of the lodgment of the purchase-money.

No. 47.—FORM of ACCEPTANCE of OFFER of PRE-EMPTION of PERPETUITY RENTS.

Diocese of

Lands of

Reply of owner to offer dated the † day of 187 , of the Commissioners of Church Temporalities.

I hereby accept the offer of the Commissioners of Church Temporalities in Ireland, made in the notice above referred to, and I undertake to pay or secure the purchase-money to the said Commissioners, within three months from the date of the said notice, as required by "The Irish Church Act, 1869," and I propose to complete my purchase in the manner indicated by my answers to the following queries.

Perpetuity rent, £ . Purchase-money, as per notice, £

* See Form of Schedule appended to Form No. 43.

† Here insert date of offer made to owner.

Queries.

1. Amount proposed to be paid in cash, £
2. Amount proposed to be secured by mortgage, £
3. { (1.) Is it desired to give a simple mortgage at 4 per cent. ?
 (2.) A mortgage paying off principal and interest in sixty-four half-yearly instalments.
 (3.) Or a mortgage paying off principal and interest in ten half-yearly instalments.
 (4.) Do. thirty do.

The Commissioners retain the power of reducing the amount to be secured by mortgage, and increasing the amount to be paid in cash by a sum not exceeding £9.

Dated this day of 187

Signature of Owner, _____

Post Town, _____

NOTE.—After these Queries have been returned to the Commissioners' office, duly filled up and signed, no alteration can be made in the mode of purchase selected by the owner.

No. 48.—FORM of OFFER of PRE-EMPTION of HOLDINGS, pursuant to 34th section of "The Irish Church Act, 1869."ⁿ

Irish Church Temporalities Commission,
24, Upper Merrion-street, Dublin,

day of 187 .

Diocese of

Benefice of

SIR—Take Notice, that the Commissioners of Church Temporalities in Ireland are willing to sell to you the fee-simple of that part of the lands of in the county of held by you as lessee or tenant thereof, immediately from or under the said Commissioners, for the sum of £ sterling [*subject,* in conjunction with the residue of the said lands of to an inappropriate tithe rent-charge of £ payable to but bound to indemnify the said residue of said lands therefrom*].

And further take notice that, unless you accept the said offer of the Commissioners, in writing, and pay or secure the above-mentioned purchase-money to the said Commissioners, within three months from the date hereof, they will offer for sale to the public the fee-simple of the said lands.

By Order,

DENIS GODLEY, *Secretary*.

N.B.—The Form of acceptance is, *mutatis-mutandis*, the same as No. 47.

* As the case may be.

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