



# Irish Church Act 1869

## 1869 CHAPTER 42

### *Dealings with Property*

#### **48 Commissioners not to expend monies in building.**

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.

#### **49 Commissioners not to expend monies in repairs.**

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,

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lighting, or other things requisite for the decent performance of Divine worship as heretofore in such church or chapel.

**50 Payment of building charge.**

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 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.

**51 Regulations as to payment of commutation and annuity.**

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

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.

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

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.

**53 Power to pay by instalments.**

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.

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**54 Sales of lands, &c. may be made in Landed Estates Court.**

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 herein-before 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.

**55 Saving claim of arrears of rent, &c.**

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.

**56 Provision for other persons under disability.**

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 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.

**57 Provision as to incapacitated owners.**

If in any case any such advowson 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

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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 ; and in the construction of that Act this Act shall for the purposes of this section be deemed to be the special Act.

**58 Power to officers of Commissioners to enter upon land.**

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.