

A

**M E A S U R E**

PASSED BY

**The National Assembly of the Church of England**

To consolidate and amend the law relating to the sale, purchase and improvement of parsonage houses and of other property belonging to benefices. [23rd June 1938.]

1.—(1) Where the residence house, outbuildings, gardens, orchard and appurtenances belonging to any benefice shall be inconveniently situate or too large, or where for other good and sufficient reasons it shall be thought advisable to sell and dispose of the same or of any part thereof, the incumbent of such benefice, or during a vacancy the bishop, shall, subject to the provisions of this Measure, have the following powers, that is to say :—

Powers of selling parsonage houses, &c.

- (i) power to sell such residence house, outbuildings, gardens, orchard, and appurtenances, or any of them, or any part thereof, with any land contiguous thereto belonging to the benefice either together or in parcels; or
  - (ii) power to pull down such residence house and outbuildings, or any of them or any part thereof and sell the materials and the site thereof, or either such materials or site or any part thereof.
- (2) Upon a sale under the powers of this Measure—
- (i) any hereditament, easement, right or privilege of any kind may be excepted, reserved or granted over or in relation to any land retained for the benefice affected, or disposed of to a purchaser, or in relation to any part thereof; and

- (ii) any restriction with respect to building on or other user of land or with respect to any other thing may be imposed and made binding, so far as the law permits, by covenant, condition, or otherwise upon the purchaser and any property disposed of to him.

(3) No power conferred by this section shall be exercisable—

- (i) so that an area of more than twelve acres (including the site of any residence house, or other buildings) shall be sold or disposed of hereunder in any one benefice;
- (ii) without the consent of Queen Anne's Bounty, the Diocesan Dilapidations Board, and (in cases where the power is exercised by the incumbent) the bishop respectively;
- (iii) without the consent of the Commissioners of Crown Lands in cases where the property proposed to be disposed of is held under any grant made by or on behalf of His Majesty in right of his Crown; or
- (iv) over or in respect of any property vested in trustees.

(4) The powers conferred by this section shall continue to be exercisable in respect of a house which has ceased to be the residence house of a benefice by reason of the constitution of a new residence house of that benefice under this Measure.

(5) All moneys arising from any sale under the provisions of this section shall be paid to Queen Anne's Bounty, and the receipt of the treasurer of Queen Anne's Bounty shall be a sufficient discharge to the purchaser.

Powers of  
erecting or  
purchasing  
new  
parsonage  
houses, &c.

2.—(1) In the case of any benefice where such action is thought desirable, and whether or not the existing residence house belonging thereto shall have been sold or disposed of, the incumbent of the benefice, or during a vacancy the bishop, shall, subject to the provisions of this Measure, have the following powers, that is to say:—

- (i) power to erect or purchase a house or purchase land for the site of a house or an orchard, garden and appurtenances or other land, such house, orchard, garden and appurtenances or any such

land, being respectively suitable for the residence and occupation of the incumbent of the benefice, but so that the total area of any land purchased including the site of any house or other buildings shall not exceed six acres, and so that leasehold property shall not be purchased except for the purpose of merging forthwith the term for which the same is held in the freehold reversion expectant on such term;

- (ii) power to improve any house erected or purchased under the preceding paragraph or any house forming part of the property of the benefice which it is proposed to constitute the residence house of the benefice;
- (iii) in cases where the foregoing powers or any of them are exercised by the bishop, power for the bishop to enter upon the land of the benefice for the purpose of exercising such powers;
- (iv) where there are no moneys specially applicable for any of the purposes aforesaid or such moneys are insufficient, power for the purpose of obtaining a loan from Queen Anne's Bounty for the provision of such moneys to exercise the powers of charging the revenues of the benefice exercisable by the incumbent under the Clergy Residences Repair Act, 1776, and the Acts extending or amending the same or any of them, but so that no limitation imposed by the said Acts or any of them in respect of the amount of any loan shall apply in the case of a loan for the purpose of erecting or purchasing a house or land for the site of a house.

17 Geo. 3.  
c. 53.

(2) No power conferred by subsection (1) of this section shall be exercisable without the consent of Queen Anne's Bounty, the Diocesan Dilapidations Board, and (in cases where the power is exercised by the incumbent) the bishop respectively.

(3) Queen Anne's Bounty shall have power exercisable in their discretion to lend moneys to the incumbent or bishop (as the case may be) for any of the purposes aforesaid.

(4) If the bishop shall during a vacancy in any benefice have exercised the powers of erecting or improving a house conferred by this section and the vacancy

shall have been filled before the completion of the work of erection or improvement, the incumbent succeeding to the benefice shall to the extent of any moneys specially applicable or lent by Queen Anne's Bounty complete such work in accordance with the plans and specifications authorised by the bishop with such modifications (if any) as may be agreed to by the bishop, Queen Anne's Bounty and the Diocesan Dilapidations Board, and in default of his so doing it shall be lawful for the Diocesan Dilapidations Board so to complete such work.

Provisions  
as to exer-  
cise of  
foregoing  
powers.

3.—(1) An incumbent or bishop proposing to exercise any of the powers conferred on him by either of the foregoing sections of this Measure shall give the prescribed notice to the patron of the benefice affected and to the parochial church council of the parish within which that benefice is situate, and Queen Anne's Bounty shall, before consenting to the exercise of such power, consider any objection raised within the prescribed time by such patron or council, and, if satisfied that such objection ought not to prevent the exercise of such power, shall inform the patron or council, as the case may require, of the reasons upon which such conclusion is founded.

(2) Where it shall appear desirable to a Diocesan Dilapidations Board that any of the powers conferred by either of the foregoing sections of this Measure should be exercised in any benefice, the Board shall make a report to the bishop, and if the bishop and the incumbent of the benefice, or during a vacancy the bishop acting alone, shall request the Board so to do, the Board may frame proposals for the exercise of such power in accordance with the provisions of this Measure, and such proposals shall be communicated by the Board to the bishop and (except during a vacancy) to the incumbent.

(3) Queen Anne's Bounty may make such recommendations as may be deemed fit as to the costs, charges and expenses which may be incurred in connection with the exercise of any power conferred by either of the foregoing sections of this Measure, and any recommendations so made shall, if the Diocesan Dilapidations Board concur in them, be binding on the person exercising such power.

Patron's  
right of pre-  
emption.

4.—(1) Subject to the provisions of this section the patron of every benefice shall have a right of pre-emption over any property belonging to such benefice in respect of

which it is proposed to exercise any power of sale conferred by this Measure.

(2) Such right of pre-emption may only be exercised by a notice in writing given by the patron to the Diocesan Dilapidations Board within fourteen days after notice of the proposed exercise of any power of sale conferred by this Measure shall have been given to him.

(3) A notice by a patron duly exercising over any property the right of pre-emption given to him by this section shall have effect as if it were a contract in writing between the incumbent of the benefice concerned (or during a vacancy the bishop) and the patron for the sale of such property to the patron under the provisions of this Measure, subject to such reservations, restrictions and conditions (if any) as the Diocesan Dilapidations Board may require to be imposed, either—

- (i) at such a price as may be agreed upon between the patron and the Diocesan Dilapidations Board; or, failing such agreement,
- (ii) at such a price as shall be fixed by a valuer appointed at the request of the Diocesan Dilapidations Board by the president for the time being of the Surveyors' Institution.

(4) The following provisions shall have effect:—

- (i) A valuer acting under this section shall have regard to the reservations, restrictions and conditions (if any) to which the sale to the patron is to be made subject, and also to the price offered by any person other than the patron.
- (ii) A valuation made under this section shall not be deemed to be a submission to arbitration under the Arbitration Acts, 1889 to 1934, or otherwise.
- (iii) The costs of and incidental to a valuation under this section according to a scale to be approved by the Diocesan Dilapidations Board shall be borne by the patron concerned, and shall be recoverable from him as a debt by the valuer who has made the valuation.

Application  
of moneys  
derived  
from sales.

5.—(1) Subject to the provisions of this section, Queen Anne's Bounty shall in their discretion apply and dispose of any moneys arising from any sale under this Measure of any part of the property of a benefice for one or more of the following purposes (that is to say) :—

- (i) in payment of the costs, charges and expenses of such sale ;
- (ii) for or towards any one or more of the purposes of the powers contained in paragraphs (i) and (ii) of subsection (1) of section two of this Measure ;
- (iii) in repayment of any money expended with the previous consent of Queen Anne's Bounty and the Diocesan Dilapidations Board for the purpose of rendering the property sold more readily saleable ;
- (iv) if and in so far as the income derived from any moneys arising from any sale under this Measure pending the application and disposition of such moneys under the foregoing paragraphs of this subsection shall be insufficient for this purpose, in payment to the incumbent of the benefice affected of the whole or any part of the expenses reasonably incurred by him in respect of his removal from one residence house to another, the storage of his furniture, and the rent paid by him for any temporary residence pending his occupation of the new residence house of the benefice : provided that no payment shall be made under the provisions of this paragraph unless the consent of the bishop and the Diocesan Dilapidations Board shall have first been obtained ; and
- (v) in any case where such moneys shall not have been wholly expended for one or more of the above-mentioned purposes, in erecting, re-building, improving or enlarging any house, cottage or farm buildings required for or belonging to the benefice.

(2) Provided that in any case where such moneys shall have arisen from the sale of property purchased originally or built or improved either wholly or in part by means of a loan under the Clergy Residences Repair Act,

1776, or the Acts amending or extending the same, or repaired either wholly or in part by means of a loan made by Queen Anne's Bounty under the Ecclesiastical Dilapidations Measures, 1923 to 1929, or which is subject to any mortgage or charge in favour of Queen Anne's Bounty, arising under any other Act or Measure, or in any case where any loan has been made for the purpose of the power contained in paragraph (iv) of subsection (1) of section two of this Measure, and any principal money shall remain owing on account of such loan or under such mortgage or charge, Queen Anne's Bounty may apply such moneys in or towards the discharge of such principal money.

(3) If and so far as any moneys arising from any sale under this Measure shall not be applied or disposed of under any of the foregoing provisions of this section, Queen Anne's Bounty shall hold the same for the benefit of the particular benefice on account of which the same shall have been received in such and the same manner and with such and the same powers of investment and other powers and authorities in all respects according to the rules and regulations of Queen Anne's Bounty for the time being as if the same had been appropriated to such benefice out of the general funds and profits of Queen Anne's Bounty or otherwise for the benefit and augmentation thereof.

6. In any case where any income shall be derived from any moneys arising from any sale under this Measure pending the application and disposition of such moneys under the foregoing provisions of this Measure, such income shall be added to the capital by way of accumulation unless Queen Anne's Bounty shall think fit to pay the whole or any part thereof to the incumbent of the benefice concerned or otherwise apply the same as income of the benefice on account of which the same shall have been received.

Interim  
income.

7. Queen Anne's Bounty shall give the prescribed notice to the patron of the benefice affected and to the parochial church council of the parish within which that benefice is situate of any proposed application and disposition of moneys under paragraph (ii) of subsection one of section five of this Measure, and shall consider any representations made by such patron or council with regard to such application and disposition.

Notice of  
application  
of moneys.

Consent and  
approval.

8.—(1) Any consent or approval of a bishop under this Measure shall be signified by writing under his hand.

(2) Any consent or approval of a Diocesan Dilapidations Board under this Measure may be given by an instrument in writing signed by the secretary of such Board.

Assurances.

9.—(1) Land (including buildings) sold or purchased under this Measure shall be conveyed by or to the incumbent of the benefice affected in his corporate capacity, and so that—

- (i) during a vacancy the bishop shall have power to convey or to take under a conveyance in the name and on behalf of the incumbent of the benefice in his corporate capacity, and no conveyance so made or taken shall on the vacancy being filled be capable of being disclaimed or renounced by any incumbent succeeding to the benefice; and
- (ii) no licence in mortmain shall in any case be required.

(2) The sealing by Queen Anne's Bounty of any conveyance executed under this Measure shall be conclusive evidence that all the requirements of this Measure with respect to the transaction carried out by such conveyance have been complied with.

(3) Every conveyance of land (including buildings) purchased for a benefice under this Measure shall be registered in the prescribed manner in the registry of the diocese concerned.

(4) In any case where any land (including buildings) sold under this Measure is subject to any mortgage or charge in favour of Queen Anne's Bounty, the conveyance thereof under this Measure shall be effectual to pass the same discharged from such mortgage or charge, and such mortgage or charge shall attach to the purchase money arising on the sale.

Extension of  
incumbent's  
borrowing  
powers.

10. The purposes for which a loan under the Clergy Residences Repair Act, 1776, or the Acts amending or extending the same may be made by Queen Anne's Bounty shall henceforth include—

- (i) the division of the residence house of the benefice into two or more parts;

- (ii) the erection, improvement, enlargement and purchase of any house, cottage or other buildings or land belonging to or suitable for acquisition for the benefice;
- (iii) the construction and improvement of the drainage of any such house, cottage, building or land and the provision and improvement of the supply of water, gas and electricity thereto;
- (iv) the making up of roads and footpaths adjoining any property belonging to the benefice and the improvement of the drive, paths and garden of the residence house of the benefice; and
- (v) the payment of compensation for the extinguishment of any manorial incidents to which the glebe or other property of the benefice was formerly subject.

11.—(1) Any house erected, purchased or improved under the powers of this Measure as the residence of an incumbent of a benefice shall as from the date on which the bishop so certifies in writing be deemed and taken to be the residence house of the benefice for which the same is erected, purchased or improved for all purposes.

Bishop  
certify  
residence  
house of  
benefice.

(2) If the residence house of a benefice is divided into two or more parts, one of the said parts shall as from the date on which the bishop so certifies in writing be deemed and taken to be the residence house of the benefice.

12. Where it is proposed that the powers conferred by this Measure shall be exercised in relation to any benefice and at the time of such proposed exercise there is no parochial church council constituted in the parish within which that benefice is situate, the following provisions shall have effect:—

Provisions  
for parishes  
without  
parochial  
church  
councils.

- (i) Any notice or information required to be given under this Measure to the parochial church council of the parish concerned shall be deemed to be duly given if given to the churchwardens of that parish; and
- (ii) the churchwardens of the parish concerned shall have the same powers of raising objections, making representations, and giving consents as are conferred on parochial church councils by

this Measure, and every objection, representation or consent so raised, made or given, shall be as effectual for all the purposes of this Measure as if there were a parochial church council duly constituted in that parish, and such objection, representation or consent had been duly raised, made or given by such parochial church council.

Notices  
where  
bishop  
is also  
patron.

13. In any case where the bishop is himself the patron of a benefice in right of his see (either solely or alternately with others), it shall not be necessary to give the bishop in his capacity as patron any notice or information which is required to be given to the patron under this Measure.

Exercise  
of powers  
of bishop.

14.—(1) Where the bishop of a diocese is disabled from exercising in person the functions of his office, the powers and duties assigned to him by this Measure shall be exercised and discharged by the archbishop of the province in which such diocese is situate.

(2) During the vacancy of a see the powers and duties assigned to a bishop by this Measure may be exercised and discharged by the guardian of the spiritualities of the diocese.

Rules.

15.—(1) Queen Anne's Bounty shall make rules for prescribing anything which is to be prescribed hereunder, and generally for carrying this Measure into effect, and such rules shall (without prejudice to the generality of the foregoing provisions)—

- (i) define for the purposes of this Measure the expression "the patron";
- (ii) contain appropriate provisions as to the notice to be given in any case where a patron is subject to any incapacity or where there is any difficulty in determining who is the patron of any benefice, or where for any other reason notice cannot practicably be given to the patron personally; and
- (iii) provide for any notice required by this Measure, or consideration of objections, or other proceedings consequent on such notice being, by the direction of Queen Anne's Bounty, dispensed with in cases of urgency, with the consent of the patron and the parochial church council.

(2) No rule made by Queen Anne's Bounty in pursuance of this Measure shall come into force until it has been submitted for approval to and approved by the Church Assembly.

(3) Every rule purporting to be made by Queen Anne's Bounty and approved by the Church Assembly in pursuance of this section shall forthwith be laid before both Houses of Parliament, and if either House of Parliament within the next subsequent twenty-eight days on which that House has sat resolves that any such rule shall be annulled, such rule shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new rule.

(4) Prima facie evidence of any rule made by Queen Anne's Bounty and approved by the Church Assembly under this Measure may be given by producing a copy of such rule containing a statement that the same has been approved by the Church Assembly sealed with the common seal of Queen Anne's Bounty or certified to be a true copy under the hand of the Secretary for the time being of Queen Anne's Bounty.

16. Where any notice to a patron of a benefice is to be given or any act or thing is to be done by such patron, notice may be given or such act or thing may be done where the patronage of the benefice is in the Crown or is part of the possessions of the Duchy of Lancaster or of the Duchy of Cornwall, to or by the person or persons to whom notices in connection with such benefice may be given under section forty of the Union of Benefices Measure, 1923.

Benefices  
in Crown  
patronage.

17. The powers conferred upon colleges and halls within the Universities of Oxford and Cambridge and other corporate bodies by section five of the Parsonages Act, 1838, shall extend and be applicable so as to authorise loans in aid of any erection of a residence house or purchase under this Measure.

14 & 15  
Geo. 5.  
No. 2.

Extension  
of section  
five of the  
Parsonages  
Act, 1838.

1 & 2 Vict.  
c. 23.

18. Section fifteen of the Clergy Residences Repair Act, 1776, shall apply to assurances and other instruments made under and for the purposes of this Measure in the same manner as it applies to instruments made under and for the purposes of that Act, or the Acts amending or extending the same.

Extension  
of section  
fifteen  
of Clergy  
Residences  
Repair Act,  
1776.

Roman  
Catholic  
patrons.

19. All rights conferred on patrons by this Measure shall, notwithstanding the provisions of any Act, be exercisable by persons professing the Roman Catholic faith, and such persons shall not for the purposes of this Measure be deemed to be subject by reason only of their religious profession to any incapacity.

Interpre-  
tation.

20. In this Measure the expressions "bishop" and "Diocesan Dilapidations Board" when used with reference to a benefice mean respectively the bishop of the diocese and the Diocesan Dilapidations Board for the area in which the benefice is situate.

Commence-  
ment.

21.—(1) This Measure shall come into force on the appointed day.

(2) The appointed day shall be such day subsequent to the day on which this Measure receives the Royal Assent as the Archbishops of Canterbury and York by writing under their respective hands and archiepiscopal seals shall jointly determine.

(3) The determination of the appointed day under this section shall be notified by advertisement in the London Gazette.

Extent and  
short title.

22.—(1) This Measure shall extend to the whole of the Provinces of Canterbury and York, except the Channel Islands and the Isle of Man.

(2) This Measure may be cited as the Parsonages Measure, 1938.

Repeal.  
20 Geo. 5.  
No. 1.

23. The Parsonages Measure, 1930, is hereby repealed.

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