



Irish Church Act 1869

1869 CHAPTER 42

Dealings between Commissioners and representative Church body

23 Redemption of annuities and life interest of ecclesiastical persons.

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 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 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, 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, 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

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 paid on the renewal of leases, on an average of fourteen years preceding the first of January one

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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.

24 Building charge to be paid on commutation of annuity.

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 theretofore 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.

25 Enactments with respect to churches.

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

- (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 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 :
- (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 :

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- (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:
- (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:
- (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 schoolhouse, and by this Act vested in the Commissioners, shall be included in the said order :
- (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.

26 Enactments with respect to burial grounds.

The following enactments shall be made with respect to burial grounds vested in the Commissioners :

- (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 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 herein-before 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

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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:

- (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 herein-before 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, 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.

27 Enactments with respect to ecclesiastical residences.

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 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 herein-after 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 herein-after 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.

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.

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28 Power to convey additional land to Church body.

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 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

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

29 Enactments with respect to private endowments.

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 monies given by private persons out of their own resources, or which may consist of or be the produce of monies 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.

30 Moveable chattels belonging to see or church.

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;

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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.