

**HANDBOOK OF CERTAIN ACTS
AFFECTING THE UNIVERSITIES OF
OXFORD AND CAMBRIDGE
AND THE COLLEGES THEREIN IN THE
SALE, ACQUISITION AND
ADMINISTRATION OF PROPERTY**

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Handbook of Certain Acts Affecting the Universities of Oxford and Cambridge and the Colleges Therein in the Sale, Acquisition and Administration of Property by William Baillie Skene

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Gr. Brit. Laws, statutes, etc. Property law.

Handbook of certain Acts

AFFECTING THE

UNIVERSITIES OF OXFORD AND CAMBRIDGE

AND THE COLLEGES THEREIN

IN THE

*SALE, ACQUISITION AND ADMINISTRATION
OF PROPERTY.*

BY

WILLIAM BAILLIE SKENE,

OF LINCOLN'S INN, BARRISTER-AT-LAW,

STUDENT AND ACTING TREASURER OF CHRIST CHURCH, OXFORD.

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P R E F A C E
TO THE SECOND EDITION.



FURTHER recent legislation on the subject of College property has made it necessary to issue a Second Edition of this book, which contains the Universities and College Estates Act, 1898, and those parts of the Settled Land Acts which are by reference incorporated in it.

Those parts of the former Acts which have been repealed have been printed in italics.

P R E F A C E

TO THE FIRST EDITION.



THIS little book does not profess to be logical or exhaustive, but it is hoped that it may be, to a certain extent, useful to persons engaged in the administration of College property as a guide to recent legislation affecting it.

It is not intended to supersede Mr. GRIFFITHS' "Enactments in Parliament," to which frequent reference is made, and which contains, among other matter, most of the earlier legislation on this subject, including some of the Acts here set out or referred to. But since the publication of Mr. GRIFFITHS' book several Acts affecting the Universities and Colleges in the administration of their property have been passed, which will be found here in an accessible form.

Handbook
OF
ACTS AFFECTING THE UNIVERSITIES OF
OXFORD AND CAMBRIDGE
AND THE COLLEGES THEREIN.

It is proposed in the following pages to consider the question of the position of the Universities of Oxford and Cambridge, and of the colleges therein, especially having regard to their powers of dealing with their property, real and personal.

It is the purpose of any institution which gives it its character of a spiritual or lay foundation.

For this reason colleges in the Universities in general are to be considered *lay* foundations.

Lay corporations are either eleemosynary or civil. Colleges are eleemosynary foundations for the promotion of learning and for the support of persons engaged in literary pursuits.

By the Common Law it was an incident to every corporation to have a capacity to purchase lands for themselves and their successors.

Secus by the Civil Law, unless by special privilege from the Emperor.

“Collegium si nullo speciali privilegio sub-

nixum sit, hæreditatem capere non posse dubium non est."—*Cod. Lib. VI. Tit. 24. 8.*

By 15 Ric. 2, c. 5, extending the Statutes of Mortmain to corporations other than religious corporations, colleges were prohibited from holding land in mortmain. And it may be stated as a general rule that corporations of every kind may purchase but cannot hold lands in mortmain, except under a licence from the Crown. (See Dart's V. & P. Vol. I., 24; Co. Litt. 20.)

But by various statutes the Crown was empowered to grant to all corporations licences to hold lands in mortmain (see 7 & 8 Will. 3, c. 37, extended to Ireland by 32 Geo. 3, c. 31). By the former Act, the operation of a licence granted by the Crown is extended so as to prevent forfeiture to mesne lords.

The licence usually specifies the amount in value of the lands which may be held by the corporation to whom it is granted. When purchases have been made to the full extent of the licence granted, a further licence must be obtained, for which purpose a petition must be presented to the Crown. (1 Shelford on Mortmain, 41.)

For licences which have been granted to corporations up to 1736, see Commons Journals, Vol. 22, 708—710.

A licence was granted to the Dean and Chapter of Christ Church in the form given in Appendix I., *post*, p. 121.

For exceptions to necessity for licence, see 51 & 52 Vict. c. 42.

It would appear that under the Mortmain Act a licence is still necessary when lands are bought out of the income of colleges or out of capital funds in their hands.

But *not* in case of lands purchased with funds obtained by sale of lands under 21 & 22 Vict. c. 44, which are, by that statute, directed to be laid out in the purchase of other lands.

See also 40 & 41 Vict. c. 48, s. 60, by which it is enacted that a licence to alien or to take or hold land in mortmain shall be unnecessary in respect of a purchase made by a corporation, before this Act, of land required for any purpose mentioned in 20 & 21 Vict. c. 25, s. 4, or 19 & 20 Vict. c. 88, s. 51.

The second part of the Mortmain Act (51 & 52 Vict. c. 42) relates to assurances of lands for charitable uses. (See Part II. of Act, sect. 4.)

But by sect. 7, an exception is made in favour of various corporations (including Oxford and Cambridge and the colleges therein), who are therefore capable of acquiring land by any assurance, either by deed or will, provided the amount does not exceed that which they are empowered by licence to hold in mortmain.