## CHAP. 102.

An Act to amend the Laws of Charitable Donations and Bequests in Ireland. [21st August 1871.]

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WHEREAS it is expedient further to amend the laws relating to charitable donations and bequests in 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:

Short title.

**1.** This Act may be cited as "The Charitable Donations and Bequests Act (Ireland), 1871."

7 & 8 Vict. c. 97., 30 & 31 Vict. c. 54., and this Act, to be construed together.

**2.** The Act passed in the session of Parliament held in the seventh and eighth years of the reign of Her present Majesty, intituled "An Act for the effectual application of Charitable Donations and Bequests in Ireland, 1844," which may be cited as "The Charitable Donations and Bequests Act (Ireland), 1844," and the Act passed in the thirtieth and thirty-first years of the reign of Her present Majesty, intituled "An Act to amend the Laws of Charitable Donations and Bequests in Ireland, 1867," which may be cited as "The Charitable Donations and Bequests Act (Ireland), 1867," and this Act, shall be construed as one Act, and any of the provisions of the said former Acts inconsistent with this Act are hereby repealed: Provided that the express or implied repeal of any provision by this Act shall not affect anything already done or suffered, or any right acquired or order made under such provision.

"Commissioners" to mean Commissioners of Charitable Donations and Bequests for Ireland.

**3.** The expression "the Commissioners" in this Act shall mean "the Commissioners of Charitable Donations and Bequests for Ireland."

Three Commissioners may act.

**4.** The fourth section of the Charitable Donations and Bequests Act (Ireland), 1844, is hereby repealed, and all things which the said Commissioners are by this Act or any of the Acts to be

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construed with this Act authorised to do may be done by any three of such Commissioners: Provided always, that such three Commissioners are for such purpose assembled at a meeting whereof due notice shall have been given to all the Commissioners.

Opinion under the 2nd sect. of 30 & 31 Vict. c. 54. to be authenticated by the seal of the Commissioners and signature of secretary.

**5.** Any opinion or advice which may be given by the Commissioners under and by virtue of the second section of the Charitable Donations and Bequests Act (Ireland), 1867, shall be authenticated by the seal of the Commissioners, and the signature of the secretaries, or of one of them, and such opinion or advice so authenticated shall be as valid and effectual to all intents and purposes whatsoever as if it were signed by the Commissioners.

Power of Commissioners in case of donations and bequests not exceeding 300*l.* principal, or 30*l.* annually.

**6.** The seventh section of the Charitable Donations and Bequests Act (Ireland), 1867, is hereby repealed; and whenever there shall be any charitable donation or bequest not exceeding in amount the sum of three hundred pounds, or in any case in which there shall be payable for any charitable or pious purposes any annual sum not exceeding thirty pounds, and it shall be found unlawful or impracticable to apply the same according to the direction or intention of the donor or donors, it shall be lawful for the Commissioners to apply or to order and direct the application of the same by the trustee or trustees in whom the same may be vested, or the person or persons whose duty it shall be to pay the same, to such charitable or pious purposes as they shall judge to be best, having regard to the directions and intentions of the donor or donors: Provided always, that the Commissioners may forbear to act under this section if they shall think fit: And provided also, that no order framing any scheme for the application of such donations and bequests to any such charitable and pious uses shall be made by the Commissioners before the expiration of one calendar month after public notice of the proposal to make such order shall have been given, in such manner as the Commissioners may consider most expedient and effectual for insuring publicity thereof, in the districts in which the charity, if of a local character, shall be applicable, or among the persons interested therein; and every notice hereby required shall contain (as far as conveniently may be) sufficient particulars of the objects of the proposed order, and prescribe a reasonable time within which any objections thereto or suggestions therein shall be made or transmitted to the Commissioners; and the Commissioners shall receive and consider all such objections and suggestions, and may act in reference thereto as they shall think expedient: Provided that in case the Commis-

sioners shall modify any such proposed orders, it shall not be necessary for them to give public notice of any such modified order in the manner prescribed by this section unless they shall think further notice desirable. A.D. 1871.

**7.** It shall be lawful for the Commissioners to proceed by petition to the Court of Chancery in Ireland under and by virtue of the eighth section of the Charitable Donations and Bequests Act (Ireland), 1867, in all cases in which it shall be found unlawful or impracticable to apply any charitable donations or bequests, according to the direction or intention of the donor or donors, whatever the amount of such charitable donation and bequest or of the annual value of the income of the property of such charity may be, and whether such charitable donation and bequest shall or shall not have been recovered by, or shall or shall not in any manner be vested in, the Commissioners: Provided always, that no petition shall be presented under the said section until the expiration of one calendar month after public notice of the intention to present such petition shall have been given in such manner as the Commissioners may consider most expedient and effectual for insuring publicity thereof in the district in which the charity, if of a local character, shall be applicable, or among the persons interested therein; and every notice hereby required shall contain (as far as conveniently may be) sufficient particulars of the objects of the proposed scheme, and prescribe a reasonable time within which any objections thereto or suggestions thereon shall be made or transmitted to the Commissioners; and the Commissioners shall receive and consider all such objections and suggestions, and may act in reference thereto, as they shall think expedient. 8th sect. of 30 & 31 Vict. c. 54. extended to all cases irrespective of the value of the property.

**8.** The sixth section of the Charitable Donations and Bequests Act (Ireland), 1867, is hereby repealed; and whenever any principal sum not exceeding fifty pounds on foot of any charitable donation or bequest, or any sum not exceeding twenty pounds on foot of any annual sum, interest, or rentcharge, shall be payable to or for any charity or charitable or pious purpose, and shall remain unpaid for the space of thirty-one days next after the same shall have become payable, it shall be lawful for the Commissioners in their own name, or for the trustee or trustees of the said charity, with the sanction of the said Commissioners, to sue for and recover the same by civil bill from the person or persons for the time being liable thereto at law or in equity, or whose duty it shall be to pay the same, in the court of the chairman of the county in which the person to be sued under Commissioners or trustees with their sanction may recover by civil bill charitable donations and bequests not exceeding 50*l.* principal, or 20*l.* arrears of annual payment.

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the provisions of this section shall have a residence within the provisions of the Civil Bill Act; and the chairman of such county shall have jurisdiction to hear and determine the same; and there shall be the same right of appeal as in the case of any civil bill brought under the provisions of the Civil Bill Acts, and such proceedings shall not require the allowance or certificate of Her Majesty's Attorney or Solicitor General for Ireland.

Any sum not exceeding 200*l.* due on foot of any charitable donation or bequest may be recovered by petition in Chancery.

**9.** Whenever any sum exceeding twenty pounds and not exceeding two hundred pounds shall be payable to or for any charitable purpose, either on foot of any annual sum, interest, or rentcharge, or for arrears thereof, or of any charitable donation and bequest, and the same shall remain unpaid for the space of thirty days after the same shall have become payable, it shall be lawful for the Commissioners to present a summary petition for the recovery of the same to the Court of Chancery in Ireland, and service of such petition shall be made upon such person and in such manner as the court shall direct, and it shall be lawful for the court to hear such petition in the usual manner, according to the course of summary petitions, and upon affidavits or such other evidence as shall be produced upon such hearing, and to make such order therein, and with reference to the costs of such application, as might be made in a suit regularly instituted in the court; and every order made upon such petition shall have the same authority and effect, and shall be enforced and be subject to appeal, in the same manner as if the same had been made in a suit regularly instituted in the court; and such petition shall not require the allowance or certificate of Her Majesty's Attorney or Solicitor General for Ireland.

Commissioners may apply under the 52 G. 3. c. 101.

**10.** It shall be lawful for the Commissioners to make application by petition to the Court of Chancery in Ireland with respect to any charity under the provisions of the Act passed in the fifty-second year of King George the Third, chapter one hundred and one, or under the provisions of any Act or Acts authorising the application to the court by petition according to the provisions of the said Act; and any relief which the court is now or shall be authorised to give, or any order which the court is now or shall be authorised to make, respecting any charity, on the petition of any two or more persons, or any petition presented according to the provisions of such Act or Acts, shall be equally valid and effectual if made on a petition so presented aforesaid by the Commissioners, and such petition shall be authenticated by the corporate seal of the Commissioners, but

shall not require the allowance or certificate of Her Majesty's Attorney General for Ireland. A.D. 1871.

Property of any description vested in a trustee for charitable purposes may, with the consent of the Commissioners, be vested in them under the 9th sect. of 30 & 31 Vict. c. 54.

**11.** It shall be lawful for any person in whom any rentcharge or annuity shall be vested in trust for any charitable or pious purpose, with the consent in writing of the Commissioners, to convey, assign, and transfer to them by deed duly executed all or any part of such rentcharge or annuity on which a charitable trust has been impressed, to be held by them for the purpose aforesaid, and the said rentcharge or annuity shall be held by the Commissioners upon the same trusts and purposes and subject to the same powers and provisions as if the same had been a fund transferred to them under and by virtue of the provisions of the ninth section of the Charitable Donations and Bequests Act (Ireland), 1867.

Commissioners authorised, where difficulty arises from absence of trustees, &c., to give effectual receipts for payments for charitable, &c. purposes.

**12.** Where any person is liable, or it is the duty of any person, to pay any sum of money, or any rent, rentcharge, annual sum, or interest, to or for any charitable or pious purpose, and by reason of the death, absence, or inability of a trustee or trustees, or other person competent to give an effectual discharge, or of there being no person so competent, difficulty arises in making payment of such sum of money, rent, rentcharge, annual sum or interest, it shall be lawful for the Commissioners, if they shall think fit so to do, to accept payment of such sum of money, rent, rentcharge, annual sum, or interest, (to be by them applied according to the trusts affecting the same,) and their receipt shall be a full and effectual discharge, both at law and in equity, to the person so paying the same.

Commissioners may apply to any court in which any fund for charitable purposes remains unapplied, to have such fund transferred to them.

**13.** Where any stock, fund, or moneys shall be invested to any credit in any cause or matter whatever, under the jurisdiction of any court, for the benefit of any charity, or impressed with any charitable trust, and shall remain unapplied for such purposes, it shall be lawful for the Commissioners to intervene and apply by motion to the court having jurisdiction in such cause or matter that such stock, fund, or moneys may be transferred to them, to be by them applied upon the charitable or pious trusts affecting the same; and it shall be lawful for the court having jurisdiction in the said cause or matter to hear such application in a summary way, and upon affidavits or such other evidence as shall be produced on the hearing of such application to make such order as to the payment or transfer of such stock, fund, or moneys so standing to any such credit as aforesaid to the Commissioners, or otherwise, and as to the costs of such application, as to the said court shall seem fit.

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Where suit for administration of assets instituted by personal representative, Commissioners may apply for conduct of the suit on ground of delay.

**14.** Where any testator shall have bequeathed legacies or devised any property of any description for any charitable purposes, and a suit for the administration of the assets, or carrying out the trusts of the will of such testator, shall have been instituted by the personal representatives or representative of such testator, it shall be lawful for the Commissioners, though not parties to such suit, to apply, on the ground of delay, to the court in which such suit is pending to have the conduct of such suit given to them, and it shall be lawful for the said court, if it shall be of opinion that there has been undue or improper delay in proceeding with the suit, to give the conduct of the suit to the Commissioners, or impose on the party having the conduct of the suit such terms as it may deem necessary for bringing the suit to a speedy termination, and to make such orders on the application, as to costs or otherwise, as it shall see fit.

Commissioners may compel trustees of charity to complete the number of trustees.

**15.** In case of any charitable donation or bequest whereof there shall be fewer trustees than the original number contemplated by the will, deed, or other instrument creating the trust, whether immediate, remote, or contingent, it shall be lawful for the Commissioners by notice to call upon the remaining trustees (or such of them as shall be resident in Ireland) to fill the vacancies; and in case of their being unwilling or unable to do so it shall be lawful for the Commissioners, after the expiration of two months from the date of such notice, to apply by summary petition to the Court of Chancery in Ireland to appoint new trustees in addition to the existing or acting trustees, to the intent that there may be the full number of trustees contemplated; and the court shall have full jurisdiction to appoint such trustees accordingly.

Copies of papers containing publication of charitable bequests under 30 & 31 Vict. c. 54. sect. 19. to be lodged in office of Commissioners.

**16.** Where any person shall be bound to publish any devise or bequest under and by virtue of the nineteenth section of the Charitable Donations and Bequests Act (Ireland), 1867, such person shall (save in case of exemption as herein-after provided, and so far as the same shall extend), within four months next after obtaining probate of the will containing such devise or bequest or administration with such will annexed, deliver at the office of the Commissioners, or forward to them by post, three papers (not being the Dublin Gazette) containing successive publications of the said devise or bequest, pursuant to the provisions of the said section; and every such person who shall neglect to deliver or forward such copies of such papers as aforesaid shall be liable to a penalty not exceeding five pounds, to be recovered by the Commissioners, who may sue for the same by civil bill in the court of proper jurisdiction: Provided always, that it shall be lawful for the Commissioners,

at their discretion, having regard to the small amount of any devise or bequest, or other special circumstances, to exempt such persons from such publication under the nineteenth section of the said Act, either wholly or to such extent and upon such terms as they shall think fit.

Service of notices.

**17.** Service of any notice upon the Commissioners shall be good service if a copy of such notice be left with one of the secretaries at the office of said Commissioners in Dublin for the time being, or by letter through the post office, directed to the Commissioners at their office.

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