

ANNO SEPTIMO & OCTAVO

VICTORIÆ REGINÆ.

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CAP. XCVII.

An Act for the more effectual Application of Charitable Donations and Bequests in *Ireland*.

[9th *August* 1844.]

WHEREAS it is expedient that the pious Intentions of charitable Persons should not be defeated by the Concealment and Misapplication of their Donations and Bequests to public and private Charities in *Ireland*: And whereas the Provisions of the Act passed by the Parliament of *Ireland* in the Third Year of His late Majesty King *George* the Third, intituled *An Act for the better Discovery of Charitable Donations and Bequests,* 3 G. 3. (I.) and of the Act passed by the Parliament of *Ireland* in the Fortieth Year of the Reign of His said late Majesty King *George* the Third, intituled *An Act to amend an Act passed in the Third Year of His present Majesty King* George *the Third, intituled* '*An Act for the better Discovery of Charitable Donations and Bequests,*' 40 G. 3. (I.) have been found insufficient for such Purposes; and it is expedient and necessary that Provision should be made for the better Management of such Charitable Donations and Bequests as have been heretofore made, and such as hereafter may be made: Be it therefore 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

Recited Acts repealed, save as to any thing done before Commencement of this Act.

of the same, That from and after the Commencement of this Act the herein-before recited Acts shall be repealed, save as to any thing done at any Time before the Commencement of this Act, all which shall be and remain good to all Intents and Purposes whatsoever as if this Act had not passed.

Commissioners of Charitable Donations and Bequests for Ireland appointed.

II. And be it enacted, That the Master of the Rolls in the High Court of Chancery of *Ireland* for the Time being, the Chief Baron of the Court of Exchequer in *Ireland* for the Time being, and the Judge of Her Majesty's Court of Prerogative for Causes Ecclesiastical and Court of Faculties in and throughout *Ireland* for the Time being, together with Ten other proper and discreet Persons, to be from Time to Time appointed by Her Majesty in Council, by Warrant under the Sign Manual, of which Ten Persons Five and not more than Five shall at all Times be Persons professing the Roman Catholic Religion, shall be One Body Politic and Corporate, by the Name of "The Commissioners of Charitable Donations and Bequests for *Ireland*," and by that Name shall have perpetual Succession and a Common Seal, and by that Name may sue and be sued.

Removal and Appointment of such Commissioners.

III. And be it enacted, That the said Commissioners shall be at all Times removable by Her Majesty in Council, by Warrant under the Sign Manual; and that whenever, by Death, Resignation, Removal, or otherwise, any Person shall cease to be a Commissioner under this Act, it shall be lawful for Her Majesty, by Warrant as aforesaid, to appoint One other Person instead of the Person so ceasing to be such Commissioner; and every Appointment of the said Commissioners and their Successors shall be published in the *Dublin Gazette*.

How many Commissioners may act.

IV. And be it enacted, That all Things which the said Commissioners are by this Act authorized to do may be done by any Five of such Commissioners: Provided always, that such Five Commissioners be for such Purpose assembled at a Meeting whereof due Notice shall have been given to all the said Commissioners.

Chairman of Commissioners.

V. And be it enacted, That at each Meeting of the said Commissioners the said Master of the Rolls, or in his Absence the said Chief Baron of the Court of Exchequer, or in his Absence the said Judge of the Prerogative Court, if present, and, in the Absence of all, the senior Commissioner in the Order of Appointment, shall preside; and the Chairman at all such Meetings shall not only vote as a Commissioner, but, in case of the Equality of Votes, shall have also the casting or decisive Vote.

Religious Questions to be referred to Committees.

VI. Provided always, and be it enacted, That the Consideration of all Charitable Donations and Bequests, and of Matters relating to them, in which any Question shall arise before the said Commissioners concerning the Usages or Discipline of the United Church of *England* and *Ireland*, or of any Body of Protestant Nonconformists, shall be referred to a Committee of the said Commissioners consisting of those Commissioners who are Protestants; and that the Consideration of all Charitable Donations and Bequests, and of Matters relating to them, in which any Question shall arise before the said Commissioners,

sioners, concerning the Usages or Discipline of the Church of *Rome*, shall be referred to a Committee of the said Commissioners consisting of those Commissioners who profess the Roman Catholic Religion; and that whenever, by reason of Reference to or Intendment of any Usage of any such Church or Body, or any District or Division, in use according to the Discipline of any such Church or Body, the Object of the Donation, Devise, or Bequest shall not be defined with legal Certainty in the Deed or Will creating the Trust, the Committee to which the same shall be referred shall certify to the Commissioners who is, according to the Uses and Intendment of such Church or Body, the Person for the Time being intended to take the Benefit of such Donation, Devise, or Bequest, or other particular Facts concerning the Usages or Discipline of such Church or Body necessary to be known, for the due Administration of the Trust, according to the true Intent and Meaning of the Donor; and the Commissioners shall receive every such Certificate as Evidence of the Facts certified, and shall give Effect to such Donation, Devise, or Bequest accordingly, so far as the same may be lawfully executed according to the Provisions of this Act: Provided always, that nothing herein contained shall be construed to limit or affect the Jurisdiction of any Court of Law or Equity.

Appointment of Officers.

VII. And be it enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governors of *Ireland*, with the Consent and Approbation of the Commissioners of Her Majesty's Treasury, from Time to Time to appoint during his Pleasure a Secretary or Secretaries to the said Commissioners, and also such Officers, Clerks, and Servants as may be necessary for the Purposes of this Act; and the said Commissioners of Her Majesty's Treasury shall fix the Salary or Salaries of the said Secretary or Secretaries, Officers, Clerks, and Servants in fit Proportion, according to the Duties which they from Time to Time may have to perform.

Salaries and Expences.

VIII. And be it enacted, That the Salaries of the said Secretaries, Officers, Clerks, and Servants, and also the necessary Expences of carrying on the Business of the said Commissioners of Charitable Donations and Bequests for *Ireland*, not herein otherwise provided for, shall be paid by the Commissioners of Her Majesty's Treasury out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*.

Minutes of Proceedings to be kept.

IX. And be it enacted, That one of the Secretaries, or some other Officer of the said Commissioners, shall make Minutes of the Proceedings of the said Commissioners at their several Meetings, and shall keep a Book, in which he shall enter a fair Copy of such Minutes, and the Names of the Commissioners present; and the fair Copy of the Minutes of the Proceedings of each Meeting shall be read at the next Meeting of the Commissioners, and if approved as correct shall be signed by the Chairman of the Meeting at which they shall be so read.

Commissioners to report.

X. And be it enacted, That the Commissioners shall, once at least in every Year, and also whenever Her Majesty's Pleasure shall be

be signified to them in that Behalf, report to Her Majesty their Proceedings under this Act; and a Copy of every such Report shall be communicated to both Houses of Parliament within Six Weeks after the same shall be made, if Parliament be then sitting, or if not then within Six Weeks next after the next Meeting of Parliament.

Property, &c. belonging to Body Corporate created by recited Act 40 G. 3. (I.) vested in Commissioners under this Act.

XI. And be it enacted, That from and after the first Publication in the *Dublin Gazette* of the Appointment of the Commissioners of Charitable Donations and Bequests for *Ireland* under this Act the Property, Estate, and Effects, Rights, Claims, Titles, and Possessions, of what Nature or Kind soever, of or belonging or which of Right ought to belong to the said Body Politic and Corporate created by the said recited Act of the Fortieth Year of King *George* the Third, and vested in the said Body by virtue of the said Act or otherwise, shall vest in and devolve upon the Commissioners of Charitable Donations and Bequests for *Ireland* created by this Act, subject to such Trusts and Conditions, Liabilities, Contracts, and Engagements, as the same shall then be subject and liable to.

Commissioners may sue for Recovery of Charitable Donations, &c. withheld, &c.

XII. And be it enacted, That the said Commissioners of Charitable Donations and Bequests for *Ireland* may sue for the Recovery of every Charitable Donation, Devise, or Bequest intended to be applied in *Ireland*, which shall be withheld, concealed, or misapplied, and shall apply the same, when recovered, to charitable and pious Uses, according to the Intention of the Donor or Donors; and the said Commissioners shall be empowered to deduct out of all such Charitable Donations, Devises, and Bequests as they shall recover all the Costs, Charges, and Expences which they shall be put to in the suing for and Recovery of the same: Provided always, that no Information shall be filed, or Petition presented, or other Proceeding at Law or in Equity undertaken or prosecuted, by the said Commissioners, until the same shall be submitted to and allowed by Her Majesty's Attorney or Solicitor General for *Ireland*, and such Allowance certified by him.

Proceedings not to be undertaken till submitted to Attorney or Solicitor General.

Actions not abated by Dissolution of Corporation created by 40 G. 3., but same may be prosecuted by Commissioners under this Act.

XIII. And be it enacted, That no Action or Suit at Law or in Equity shall be abated by the Dissolution of the said Corporation created by the said Act of the Fortieth Year of the Reign of King *George* the Third, but that the Court in which any Action or Suit shall be depending at the Time of the Commencement of this Act may, if such Court shall so think fit, upon the Application of any Party to the said Action or Suit, allow the Name of the Commissioners of Charitable Donations and Bequests for *Ireland* incorporated by this Act to be substituted in the Place of the said Commissioners created by the said Statute of the Fortieth of *George* the Third, and such Action or Suit may be prosecuted and defended in the same Manner as if the same had been originally instituted by or against the said Commissioners incorporated by this Act.

Commissioners not to pay Costs to Attornies,

XIV. And be it enacted, That no Sum shall be paid by the said Commissioners of Charitable Donations and Bequests for *Ireland* to any Attorney or Solicitor, as and for Costs, Charges, or Expences, unless

unless the Amount of such Payment shall first have been approved of by the Commissioners of Her Majesty's Treasury; and before any such Sum shall be allowed by the said Commissioners of the Treasury on such Account as aforesaid the Particulars of all such Costs, Charges, and Expences shall be laid before them. &c. unless Amount approved by the Treasury.

XV. And be it enacted, That every Person or Body Corporate having in his, her, or their own Right any Estate or Interest, in possession, reversion, or remainder, of or in any Lands, Tenements, or Hereditaments, or any Property of or in any Goods or Chattels, shall have full Power, at his, her, and their Will and Pleasure, by Deed duly executed, and attested by Two credible Witnesses, or by his or her last Will in Writing, duly executed according to Law, to give and grant to and vest in the said Commissioners of Charitable Donations and Bequests for *Ireland*, and their Successors, all such his, her, or their Estate, Interest, or Property in such Lands, Tenements, Hereditaments, Goods, and Chattels, or any Part or Parts thereof, in trust for building, enlarging, upholding, or furnishing any Chapel or Place of Religious Worship of Persons professing the Roman Catholic Religion, or in trust for any Archbishop or Bishop or other Person in Holy Orders of the Church of *Rome* officiating in any District, or having pastoral Superintendence of any Congregation of Persons professing the Roman Catholic Religion, and for those who shall from Time to Time so officiate or shall succeed to the same pastoral Superintendence, or for building a Residence for his and their Use; and such Estate, Interest, or Property in such Lands, Tenements, or other Hereditaments, Goods and Chattels, shall vest in and be holden by the said Commissioners, subject to the Trusts of such Deed and Will respectively, without any Writ or Licence other than this Act: Provided always, that nothing herein contained shall be construed to render lawful any Donation, Devise, or Bequest to or in favour of any Religious Order, Community, or Society of the Church of *Rome* bound by Monastic or Religious Vows prohibited by an Act passed in the Tenth Year of the Reign of King *George* the Fourth, intituled *An Act for the Relief of His Majesty's Roman Catholic Subjects*, or to or in favour of any Member or Members thereof. Persons or Bodies may by Deed vest Lands, &c. in the Commissioners, in trust for Roman Catholic Ministers in Ireland. 10 G. 4. c. 7.

XVI. And be it enacted, That after the Commencement of this Act no Donation, Devise, or Bequest for pious or charitable Uses in *Ireland* shall be valid to create or convey any Estate in Lands, Tenements, or Hereditaments for such Uses, unless the Deed, Will, or other Instrument containing the same shall be duly executed Three Calendar Months at the least before the Death of the Person executing the same, and unless every such Deed or Instrument, not being a Will, shall be duly registered in the Office for registering Deeds in the City of *Dublin* within Three Calendar Months after the Execution thereof. Deeds to be registered.

XVII. And be it enacted, That it shall not be lawful for any such Archbishop, Bishop, or Person in Holy Orders of the Church of *Rome* to alien, set, let, or in any Manner demise for any Period whatever such Lands, Tenements, or Hereditaments, or any Part thereof, or in Archbishops, &c. not to alien or demise Lands, &c. enjoyed by

them under this Act.

in any Manner whatever to charge or incumber the same, or any Property enjoyed by him under this Act, but that all Charges and Incumbrances upon such Lands, Tenements, and Hereditaments, or other Property, and all Conveyances, Gifts, Grants, Demises, or Sub-demises of the same or any Part thereof, made or to be made by any such Archbishop, Bishop, or other Person in Holy Orders of the Church of *Rome*, shall be absolutely void: Provided always, that it shall and may be lawful for the said Archbishop, Bishop, or other Person in Holy Orders of the Church of *Rome* to execute such Leases as herein-after are mentioned.

Commissioners of Charitable Donations, &c. may lease said Lands, &c. with Consent of Archbishop, &c. of Church of Rome.

XVIII. And be it enacted, That it shall and may be lawful for the said Commissioners of Charitable Donations and Bequests for *Ireland*, from Time to Time, by Deed under the Common Seal of the said Commissioners, to demise or lease the said Lands, Tenements, or Hereditaments, or any Part thereof, by and with the Consent of the said Archbishop, Bishop, or other Person in Holy Orders of the Church of *Rome*, or those who respectively shall succeed them as aforesaid, testified by his or their being a Party to and executing such Lease, for any Term not exceeding Twenty-one Years, unless on Building Lease, in which Case such Lease may be granted for any Term not exceeding One hundred Years: Provided always, that the said Lease shall take effect in possession, and not in reversion or by way of future Interest, and that there be made payable during the Estate or Interest thereby created the best yearly Rent that can be reasonably obtained for the same, without any Fine, Premium, or Foregift for the making thereof being paid or payable to the said Commissioners, or to the said Archbishop, Bishop, or other Person in Holy Orders of the Church of *Rome*; and provided that there be contained in every such Demise or Lease a Covenant for the Payment of the Rent thereby reserved, and a Condition for Re-entry on Non-payment of the Rent or any Part thereof for Twenty-one Days next after the same shall become due, and so that the Lessee or Lessees therein named do execute a Counterpart of the said Demise or Lease, and be not in any Manner made dispunishable for committing Waste.

Vicar General and Registrar of Prerogative Court to make Return to Commissioners of Charitable Donations, &c. of every Charitable Donation contained in any Will entered in the Office of such Vicar General, &c.

XIX. And be it enacted, That from and after the Commencement of this Act the Vicar General or his Surrogate, and the Registrar of the Prerogative Court, shall make a Return upon Oath to the Commissioners of Charitable Donations and Bequests for *Ireland*, between the First Day of *July* and the First Day of *November* in every Year, of every Charitable Devise or Bequest contained in any Will which shall be entered in the Office of such Vicar General, Surrogate, or Registrar, which Return shall likewise contain the Name of the Testator, the Name or Names of the Person or Persons to whom Probate of any such Will, or Letters of Administration with such Will annexed, shall be granted, with the Date of such Will, Probate, or Administration; which Return shall be lodged with one of the Secretaries of the said Commissioners; and every such Officer as aforesaid who shall neglect to make such Return as aforesaid shall forfeit the Sum of Five Pounds Sterling, to be recovered by any Person who shall sue for the same by Civil Bill; and the Person or Persons to whom the Probate of any such Will or Letters

of Administration as aforesaid shall be granted shall, within Three Calendar Months next after obtaining the same, publish in the *Dublin Gazette*, Three Times successively, every Charitable Devise or Bequest contained in such Will, the Name of the Testator and Date of such Will or Codicil, and the Name of the Person or Persons to whom such Charitable Devise or Bequest is given and bequeathed, and the Name of the Person or Persons appointed by the Testator for the Management and Direction thereof; and the Expence of such Publication shall be paid by the said Executors or Administrators out of the said respective Charities; and every such Person or Persons who shall neglect to publish the same in manner herein required shall forfeit for every such Neglect the Sum of Five Pounds Sterling, to be recovered by any Person who shall sue for the same, by any Action of Debt, Bill, Plaint, or Information, in any of Her Majesty's Courts of Record.

Accounts of the Commissioners to be audited by Chief or Second Remembrancer of the Exchequer in Ireland;

XX. And be it enacted, That the Accounts of the said Commissioners of the Sums passing through their Hands arising from Charitable Donations and Bequests shall, from and after the Commencement of this Act, be from Time to Time audited and declared by the Chief Remembrancer or Second Remembrancer of the Court of Exchequer in *Ireland*; and that the said Commissioners of Charitable Donations and Bequests in *Ireland* shall cause the said Accounts to be made out in such Form as the said Chief or Second Remembrancer shall direct, and shall send the same to him, with proper Vouchers for their Receipts and Payments; and the said Chief Remembrancer or Second Remembrancer, after examining each Account rendered to him as aforesaid, with the Documents annexed thereto, shall settle and declare the same, and shall lodge such Account, when so settled and declared, with the Clerks of Her Majesty's Privy Council in *Ireland*, who shall send one Copy thereof to the said Commissioners of Charitable Donations and Bequests for *Ireland*, and keep one other Copy thereof in the Privy Council Office in *Ireland*.

who may examine Persons on Oath respecting such Accounts.

XXI. And be it enacted, That it shall be lawful for the said Chief Remembrancer or Second Remembrancer to call before him and examine on Oath any Person whom he may deem it necessary to examine on the Matter of such Accounts; and every Person who on such Examination on Oath shall wilfully make any false Statement shall be deemed guilty of Perjury.

Commencement of Act.

XXII. And be it enacted, That this Act shall commence from and after the First Day of *January* One thousand eight hundred and forty-five; and that nothing herein contained shall be taken to avoid or render unlawful any Donation, Devise, or Bequest which but for this Act would be lawful, except as to the Time within which the Deed, Will, or Instrument containing such Donation, Devise, or Bequest for pious or charitable Uses is herein-before required to be executed and registered.

XXIII. And

Act may be amended this Session.

XXIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

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