


ANNO TRICESIMO & TRICESIMO PRIMO

# VICTORIÆ REGINÆ.

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## CAP. CXXXIII.

## An Act relating to the Consecration of Churchyards. [20th *August* 1867.]

WHEREAS it is expedient to diminish the Expense attendant on the Consecration of Portions of Ground adjoining and added to existing Churchyards:

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 of the same, as follows:

Power for Bishop to sign Instrument of Consecration at Churchyard without Presence of Chancellor, &c.

**1.** Where any Ground adjoining to an existing Churchyard has been or is added thereto, the Bishop of the Diocese may, if he thinks fit, at the Churchyard or in the Church to which it belongs, by his own Hand, or by the Hand of any Bishop of the United Church of *England* and *Ireland* lawfully appointed as his Commissary, sign an Instrument declaring or recording the Consecration of such Ground, without the Presence of the Chancellor or Registrar of the Diocese being necessary; and the Signature of the Bishop to such Instrument shall be attested by the Chancellor or by a

Surrogate or by any Two Clergymen of the Diocese, and shall be in the following Form, endorsed on a Plan of the Ground so added: I, *A.B.*, Bishop of , do hereby declare and record the Ground added to the Churchyard of , as on the within Plan, to be consecrated Ground and Part of the said Churchyard; and such Instrument, so signed and attested, on being deposited in the Registry of the Diocese, shall have the same Effect as a Sentence of Consecration.

No Officer attending to take Fee.

**2.** No Officer of the Bishop or of the Diocese shall receive any Fee for Attendance at such Consecration, or any Allowance for travelling or for Attendance.

Fee for Deposit.

**3.** A Fee of Five Shillings shall be payable to the Registrar for the Deposit of every such Instrument of Consecration.

Powers given in School Sites Acts for Conveyance of Land to apply to Conveyances under this Act.

**4.** And whereas by an Act passed in the Fourth and Fifth Years of the Reign of Her present Majesty, intituled *An Act to afford further Facilities for the Conveyance and Endowment of Sites for Schools*, and by another Act passed in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, intituled *An Act to extend and explain the Provisions of the Acts for the granting of Sites for Schools*, Powers are given to Persons being seised in Fee Simple, Fee Tail, or for Life of and in any Manor or Lands of Freehold, Copyhold, or Customary Tenure, and having the beneficial Interest therein, to grant, convey, or enfranchise, by way of Gift, Sale, or Exchange in Fee Simple or for Term of Years, any Quantity not exceeding One Acre of such Land as a Site for a School, and it is expedient that the same Powers should be extended to Persons willing to grant Land for the Enlargement of Churchyards or Burial Places in *England* or *Wales*: Be it therefore enacted, That the said Acts shall be deemed to apply to all Persons desirous of granting Land for the Purpose of such Enlargement, in the same Way as if the said Land had been granted as a Site for a School; provided nevertheless, that no such Grant shall be made otherwise than in Fee Simple, and may be made in the Form herein-after provided; and that every such Grant made by any Person seised only for Life shall be valid without the Concurrence therein of the Person next entitled in Remainder in Fee Simple or Fee Tail, and such Conveyance shall be good and valid without any Licence or Writ of Ad quod damnum, the Statutes of Mortmain, or any other Statute or Law, to the contrary notwithstanding.

**5.** Any

Form of Conveyance of Lands for adding to existing Churchyards.

**5.** Any Lands or Hereditaments adjoining any Churchyard or Burial Place may be conveyed for the Purpose of adding thereto by a Deed in the Form following, with such Variations (if any) as the Circumstances of the Case may require:

'I [*or* We, *or the corporate Title of a Corporation,*] under the 'Authority of "The Consecration of Churchyards Act, 1867," do 'hereby freely and voluntarily give, grant, and convey [*or, as the 'Case may be,* do hereby, in consideration of the Sum of 'to me, *or* us, *or* the paid, grant and convey] unto 'the Person or Persons, or Corporation Sole or Aggregate, in whom 'the Churchyard or the Burial Place known as of 'is now vested, his or their Heirs or Successors, all '[*describing the Hereditaments to be conveyed*], and all Right, Title, 'and Interest in the same and every Part thereof, to be held for 'ever as Part of the said Churchyard or Burial Place:'

And every such Conveyance shall be valid and effectual in the Law to all Intents and Purposes.

Deed of Gift, &c. not to be subject to Stamp Duties.

**6.** And whereas by the Act of the Fifty-ninth Year of *George* the Third, intituled *An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes,* and by another Act of the Third Year of *George* the Fourth, intituled *An Act to amend and render more effectual Two Acts passed in the Fifty-eighth and Fifty-ninth Years of His late Majesty, for building and promoting the building of additional Churches in populous Parishes,* the Commissioners for managing the Duties upon stamped Vellum, Parchment, and Paper are authorized to allow the full Amount of Stamp Duties upon Instruments made in relation to the said recited Acts; and it is expedient to make further Provisions in relation to such Stamp Duties: Be it therefore enacted, That no Deed of Gift, or Grant, Security, Contract, Agreement, Deed, or Conveyance, or other Instrument made for the Purposes of this Act, or for the carrying into execution any of the Powers, Authorities, or Provisions of this Act, shall be subject to any of the Duties upon stamped Vellum, Parchment, or Paper, anything in any Act or Acts of Parliament to the contrary notwithstanding.

Application of the Provisions of Act of 3 G. 4. c. 72. s. 29. to Lands so added.

**7.** From and after the Expiration of Five Years after the Conveyance of any Lands or Hereditaments for such Addition to any Churchyard or Burial Place and the Inclosure of the same within One Boundary Fence, although the same shall not have been consecrated

secrated and although no Burial shall have been had within the same during that Period of Time, the said Lands and Hereditaments shall, for the Purposes of this Act, become and be and remain absolutely vested in the Person or Persons or Corporation in whom the Churchyard or Burial Place to which they are added is vested, free from all Demand or Claim of any Person or Persons or Corporation whatsoever, and without being thereafter subject to any Question as to any Right, Title, or Claim thereto, or in any Manner affecting the same.

Saving Provisions of former Acts.

**8.** Except as is by this Act expressly enacted, nothing therein contained shall affect the Provisions of any Act of Parliament with reference to Lands or Hereditaments conveyed as Sites for Churchyards or to the Conveyances thereof.

Exclusive Right of Burial in a Portion of the Land added to a Churchyard may be secured to the Giver thereof.

**9.** Whenever any Land shall be so added to a consecrated Churchyard, and such Land shall have been the Gift of any Person whether resident or not in the Parish or Ecclesiastical District in which such Churchyard is situated, it shall be lawful for the Giver of such Land to reserve the exclusive Right in perpetuity of Burial and of placing Monuments and Gravestones in a Part of the Land so added, not exceeding Fifty Square Yards or One Sixth of the whole of the said Land, and the Part in which such exclusive Right is reserved shall be shown and coloured on the Plan endorsed on the Instrument declaring or recording the Consecration of the Land added to the Churchyard; and a Memorandum in the Form following shall be written on the said Instrument, and signed by the Incumbent and Churchwardens of the Parish or Ecclesiastical District in which the same is situated:

We, *A.B.*, [Rector, Vicar, *or* Incumbent,] and *C.D.* and *E.F.*, Churchwardens, of , declare the Piece of Land [*here insert the Description and Measurement*], and coloured on this Plan, to be the Burial Place of *G.H.*, the Giver of the Land added to the Churchyard of his Heirs and Assigns.

Signed *A.B.*,
*C.D.*,
*E.F.*,
in the Presence of *J.K.*

Dated this Day of .

And the Memorandum so signed shall, after such Land shall have been declared to have been consecrated, operate as an exclusive Right in perpetuity in the Land therein referred to, and the

Expenses

Expenses of preparing and executing such Memorandum shall be borne by the Person by whom the Reservation is made.

Conditions attending such Grant of exclusive Right of Burial.

**10.** The exclusive Right of Burial and of placing Monuments and Gravestones as aforesaid shall be considered to be the Real Estate of the Giver, his Heirs and Assigns, and no Body shall be buried or Monument or Gravestone placed in the Land in which such Rights have been granted, except by Consent of the Owner thereof for the Time being, but no such Reservation shall give the Right to bury the Body of any Person not entitled to be buried in consecrated Ground, and the Bishop of the Diocese, and all Persons acting under his Authority, shall have the same Right and Powers to object to the placing and to procure the Removal of any monumental Inscription within the Ground so reserved as he has to object to or procure the Removal of any monumental Inscription in any consecrated Ground: Provided always, that the Consent of the Owner for the Time being shall not be required for the Burial of a deceased Owner or of a Wife or Widow of any deceased Owner who has been buried or shall be about to be buried in such Ground.

As to closing of reserved Portion.

**11.** Such reserved Portion shall not be included in any Order in Council under the Burial Acts for closing the Churchyard to which it belongs, but it may be closed under a separate Order founded on a special Report that the Ground is in such a State as to render any further Interments therein prejudicial to the Public.

Where Communion Table has been moved, or Walls of Church have been partly demolished, Marriages, &c. to be valid, although the Church be not re-consecrated or reconciled.

**12.** And whereas Doubts are entertained whether in Cases where a Church or Chapel has been rebuilt, repaired, or enlarged, and the external Walls have been partly destroyed, or the Position of the Communion Table altered, a Reconsecration of such Church or Chapel be not necessary in order to the due and valid Administration of Divine Offices there: Be it declared and enacted, That all Marriages, Rites, and Ceremonies heretofore or hereafter celebrated or performed in a consecrated Church or Chapel which may have been rebuilt, repaired, or enlarged prior to such Celebration or Performance, and wherein such Marriages, Rites, and Ceremonies might have been legally solemnized or performed previously to such Rebuilding, Repair, or Enlargement, shall be valid and effectual for all Purposes, notwithstanding that upon such Repair or Enlargement the external Walls of such Church or Chapel may not have remained entire, or the Position of the Communion Table may have been altered, and notwithstanding that since such Rebuilding,

Repair, or Enlargement no Reconsecration of such Church or Chapel may have taken place.

Short Title.

**13.** This Act may be cited as The Consecration of Churchyards Act, 1867.

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