

ANNO PRIMO & SECUNDO

GEORGII IV. REGIS.

****

CAP. XCII.

An Act to authorize the Exchange of Lands, Tenements, or Hereditaments, subject to Trusts for Charitable Purposes, for other Lands, Tenements, or Hereditaments. [10th *July* 1821.]

WHEREAS Lands, Tenements, or Hereditaments, subjected to Trusts for Charitable Purposes, may be in some Cases exchanged for other Lands, Tenements, or Hereditaments, so as to benefit the Objects of the Charity: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King'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, That from and after the passing of this Act it shall and may be lawful for any Person or Persons, Body Politic or Corporate, in whom any Lands, Tenements, or Hereditaments shall be vested, subject to any Trust for any Charitable Purpose, to grant and convey to any Person or Persons, Body Politic or Corporate, and to his, her, or their Heirs, Successors, and Assigns, or otherwise, as he, she, or they shall direct or appoint, any such Lands, Tenements, or Hereditaments, in Exchange for any other Lands, Tenements, or Hereditaments, under and according to the several Restrictions, Declarations, and Provisions herein-after expressed, and not otherwise.

Persons in whom Lands, &c. are invested may exchange Premises.

Application to be made to the Bishop of the Diocese, who may issue a Commission to ascertain whether an Exchange will be beneficial to the Charity.

II. And be it further enacted, That whenever it shall be thought adviseable by the Trustees or Trustee of any Lands, Tenements, or Hereditaments, subject to any Trust for any Charitable Purpose, to exchange the same, or any Parts or Part thereof, for any other Lands, Tenements, or Hereditaments, Application shall be made to the Bishop of the Diocese in which any such Lands, Tenements, or Hereditaments, subject to any Trust for Charitable Purposes, and so proposed to be exchanged, shall be situate, stating the Objects of the Charity, the Manner in which such Charity Lands, Tenements, or Hereditaments are become vested in such Trustees or Trustee, and for what Reasons it may be fit and proper that any such Exchange should be made, and what Benefit will be derived to the Objects of the Charity by means of such Exchange, which Statement shall be verified on Oath before One of His Majesty's Justices of the Peace for the County, Riding, Division, or Place where such Lands shall be situate; and thereupon it shall be lawful for such Bishop to direct such Inquiries to be made as he may think proper, and to require such Information to be given to him as he may think necessary, previous to his issuing such Commission, as herein-after mentioned; and in case such Bishop shall be satisfied that reasonable Ground has been laid before him to warrant his issuing such Commission, then and in such Case such Bishop shall issue a Commission, under his Episcopal Seal, directed to Four or more fit and proper Persons, Two of whom at the least shall be beneficed Clergymen, and one of whom shall be a Barrister at Law of at least Five Years standing, and by such Commission the Commissioners therein named, or any Three of them, one of whom shall be a beneficed Clergyman and one such Barrister as aforesaid, shall be authorized and required to inquire whether such proposed Exchange will be beneficial to the Objects of the Trust, to which the Charity Lands, Tenements, or Hereditaments so proposed to be exchanged shall be subject, and for what Reason or Reasons such Exchange will be beneficial to the Charity; and for the Purpose of such Inquiry, such Commissioners shall examine upon Oath (which Oath they are hereby empowered to administer) all Persons who may be brought before them for that Purpose, and shall require the Parties applying for such Exchange to bring before them any other Persons to be examined upon Oath touching any Matters which such Commissioners may deem necessary for their Information; and such Commissioners shall also require all Deeds, Papers, and Writings, which they may deem necessary for their Information, to be also laid before them, and shall direct such Surveys, Maps, and Plans to be made of the Lands proposed to be given and taken in Exchange, as they may think proper; and shall cause such Lands, Tenements, and Hereditaments respectively, and the Timber and Trees on such Lands respectively, and Rights of Common, and all other Rights belonging thereto, to be valued, so as clearly to ascertain whether the proposed Exchange will be permanently beneficial to the Charity or not, and if permanently beneficial, for what Reason it will be so beneficial, and whether such Exchange is proposed for the Convenience of the Charity, or for the Convenience of any other Person or Persons, Body Politic or Corporate, and whether the Terms upon which the Exchange is proposed to be made are the best which can reasonably be obtained for the Benefit of the Charity; and such Commis-

Of whom the Commission shall consist.

Commissioners to examine on Oath, and may require Production of Deeds, and direct Surveys to be made, and certify to the Bishop the Matters that shall arise.

Commissioners shall also inquire into the Title to the Lands, Tenements, or Hereditaments proposed to be given in Exchange for the Benefit of such Charity, so as to enable the Bishop, on the Return of such Commission, to judge of the Propriety of allowing such Exchange to take place; and such Commissioners shall thereupon certify to the Bishop the several Matters which shall be made to appear to them, together with the Surveys and other Evidence laid before them, closed up, under their Hands and Seals, which shall be deposited with the Registrar of the Diocese.

Commissioners to take the following Oath.

III. And be it further enacted, That before such Commissioners shall proceed to execute such Commission, they shall respectively take the following Oath:

'I *A. B.* One of the Commissioners named in a Commission [*describing the Commission,*] do swear, That I will faithfully do and execute all the Matters by the said Commission required to be done by me, and a true Report make to the best of my Ability, as by such Commission required. So help me GOD.'

Which Oath shall be administered by One of the said Commissioners, to any other or others of them, and shall be certified to the Bishop, together with the other Proceedings under such Commission.

The Bishop may lay the Proceedings of the Commissioners before Counsel.

IV. And be it further enacted, That upon the Return of such Commission it shall be lawful for the Bishop to examine the Proceedings under the same, and, if he shall see fit, to direct the same to be laid before some Counsel learned in the Law for his Opinion and Advice thereupon, and also to direct the Title to the Lands proposed to be given in Exchange to the Charity to be examined in such Manner as he shall think fit; and if he shall think fit, to cause the same to be laid before Counsel learned in the Law for his Opinion thereon; and in case the said Bishop shall not be satisfied with the Return made by such Commissioners, it shall be lawful for him to issue a new Commission or new Commissions, directed to the same or other Commissioners, to the End that he may be fully satisfied of the Propriety of such proposed Exchange; and such new Commission or Commissions shall be executed and returned, and the Return or Returns thereto deposited with the Registrar of the Diocese, as before directed with respect to the first Commission; and if the said Bishop shall be satisfied, upon the Return of the Commission or Commissions so to be issued by him, or by such other and further Information as he shall obtain as aforesaid, that such proposed Exchange is proper and beneficial to the Charity, it shall be thereupon lawful for him to signify his Approbation of such Exchange, by signing and sealing with his Episcopal Seal Two Parts of the Deed of Bargain and Sale herein-after mentioned; and it shall be lawful for the Trustees or Trustee of the Charity Lands, Tenements, or Hereditaments proposed to be exchanged, by Deed of Bargain and Sale, inrolled in the High Court of Chancery within Six Calendar Months after the Date thereof, to convey the Lands, Tenements, or Hereditaments to be given by them in Exchange, to the Person or Persons, Bodies Politic or Corporate, to whom the same shall be directed to be conveyed; and by the same Deed the Lands, Tenements,

A new Commission may be issued.

Approbation to be signified by signing and sealing.

Conveyance to be made in Manner herein mentioned.

ments, or Hereditaments, proposed to be given to the Charity in Exchange, shall also be conveyed to the Uses of such Charity, and such Deed shall be acknowledged by the Person or Persons making the Conveyance of such Lands, Tenements, or Hereditaments, to the Uses of such Charity, for the Purpose of Inrolment; and Two Parts of such Deed shall be prepared and executed, and a Memorandum of the Inrolment shall be indorsed on each Part; and both Parts of such Deed, after the same shall have been inrolled as aforesaid, shall be produced to the Bishop, and a Transcript of such Deed, and of the Memorandum of Inrolment, shall be entered in the Registry of the Diocese; and the Bishop shall thereupon, by Writing under his Hand, indorsed on each Part of such Deed, authorize the Delivery of Possession, according to the Terms of such Deed, of the Lands before belonging to the Charity, and so conveyed in Exchange; and the Delivery of Possession to the Trustees or Trustee of the Charity, of the Lands, Tenements, or Hereditaments so conveyed to them in Exchange, and the Execution of both Parts of such Deed by the several Parties thereto, and the signing of such Authority for Delivery of Possession, shall be attested by Two or more credible Witnesses, which Attestation or Attestations shall be indorsed on both Parts of such Deed; and the Attestation of the Execution of such Deed by the Trustees or Trustee of the Charity Lands, Tenements, or Hereditaments thereby conveyed, shall express that both Parts of such Deed were signed by the Bishop before the Execution thereof by such Trustees or Trustee; and a Transcript of such Authority for Delivery of Possession, and of such several Attestations as aforesaid, shall be entered in the Registry of the Diocese, and one Part of such Deed shall remain with such Trustees or Trustee, for the Benefit of the Charity, and the other Part shall be delivered to the Person or Persons, Body Politic or Corporate, to whose Use the Charity Lands, Tenements, or Hereditaments shall be thereby conveyed in Exchange.

Deeds when inrolled to be produced to the Bishop, and a Transcript thereof entered in the Registry of the Diocese.

Before issuing Commission Three Months Notice to be given in Newspapers, &c. stating Particulars, &c.

V. Provided also, and be it further enacted, That before any such Commission shall issue to make Inquiry touching any Exchange intended to be made under the Provisions of this Act, Three Months previous Notice shall be given of the Intention to propose such Exchange, by inserting the Particulars, Extent, and Situation, and the Tenure of the Lands, Tenements, or Hereditaments respectively proposed to be given and taken in Exchange, for Three successive Weeks in some one and the same Newspaper generally circulating in that Part of the Country where the Lands, Tenements, or Hereditaments proposed to be exchanged shall be situated; and also by affixing such Notice in Writing on a conspicuous Part of the Door of the Church or Chapel of each Parish or Chapelry wherein such Lands, Tenements, or Hereditaments, or any Part thereof, shall be situated, on Three successive Sundays whereon Divine Service shall be performed, and shortly before the Commencement of such Service in each Church or Chapel.

Vacancies of Trustees to be filled up prior to any Application

VI. And whereas in some Cases where there were originally Two or more Trustees of Charity Lands, Tenements, or Hereditaments proposed to be exchanged under the Authority of this Act, the Number of Trustees may have been reduced by Death or otherwise;

be it further enacted, That in such Cases the Vacancies of Trustees shall be filled up in the usual Manner, prior to any Application for an Exchange pursuant to this Act, except in such Cases in which the Number of Trustees living and capable of acting shall be Six or more, in which Cases the Majority in Number of Trustees living and capable of acting, shall signify their Consent to any proposed Exchange in Writing, by signing the Application to the Bishop to authorize such Exchange as aforesaid; and when the original Trustees shall have been fewer in number than Six, and more than Three, then the Consent of not less than Four of such Trustees shall be so signified to the Bishop; and if the original Trustees shall have been only Three or Two, then the Consent of all the Trustees shall be signified by all of them; or if there shall have been originally only One Trustee, then the Consent of the sole Trustee for the Time being shall be so signified; and if any Body Politic or Corporate shall be a Trustee for any such Charity Lands, Tenements or Hereditaments, then such Consent shall be signified under the Seal of the Corporation, whether a Corporation Aggregate or Sole, having a Corporate Seal, and such Signatures, and the affixing of such Seals respectively, shall be attested by Two or more credible Witness or Witnesses.

for an Exchange, unless when there are Six or more Trustees.

Number of Trustees necessary to give Consent.

VII. And whereas in some Cases it may not appear in whom Lands, Tenements, or Hereditaments subject to Charitable Purposes may be vested, and there may be therefore no Person capable of acting touching any such Exchange as aforesaid, on behalf of the Charity; be it further enacted, That in all such Cases it shall be lawful for the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments shall be situate, upon sufficient Proof of the Fact, by Instrument in Writing under his Hand and Seal, to nominate proper Persons to act as Trustees on behalf of the Charity, for the Purposes of such Exchange, before any other Proceedings shall be had touching such Exchange; which Trust the Person so nominated shall accept, by executing such Instrument, before they shall act in such Trust; and thereupon it shall be lawful for such Trustees to do all Things necessary for the Purpose of such Exchange, as if the Lands, Tenements, and Hereditaments subject to such Charitable Purposes had been duly vested in them for such Purposes, and to convey the Charity Lands proposed to be exchanged under the Authority of this Act: Provided always, that if it shall at any Time afterwards appear in whom such Lands or Hereditaments were actually vested at the Time of such Exchange, it shall be lawful for the Person or Persons, Body Politic or Corporate, in whom the same shall be then vested by means of such Exchange, to obtain, at his, her, or their own Expence, a Confirmation thereof by Conveyance from the Person or Persons, or their Heirs, in whom it shall appear the same were so vested at the Time of such Exchange; but the Defect of Title of the Trustees so to be nominated by the Bishop as aforesaid, shall not prejudice the Title to the Lands, Tenements, or Hereditaments received in Exchange in Trust for such Charitable Purposes as aforesaid, but the same shall be held and enjoyed for such Charitable Purposes, notwithstanding the Lands, Tenements, or Hereditaments originally subject to such Charitable Purposes, and so given in Exchange, were not vested, except by the Authority of this

In Cases where there are no Trustees, the Bishop may appoint them in Cases of Exchange.

Confirmation of Conveyance.

Act, in the Persons who may have conveyed the same in Exchange under the Authority of this Act.

Exchanges may be effected though Trustees may be Proprietors of the Lands to be given in Exchange.

VIII. And whereas Doubts may arise whether under the Provisions of this Act an Exchange might be legally effected where any Trustee or Trustees of Charity Lands, proposed to be given in Exchange, should also be the Proprietor or Proprietors of the Lands for which such Charity Lands should be so proposed to be given in Exchange; be it therefore enacted, That under and according to the several Restrictions, Declarations, and Provisions herein-before expressed, and subject thereto, but not otherwise, it shall and may be lawful for any Trustee or Trustees of any Lands, Tenements, or Hereditaments vested in him, her, or them, either alone or jointly with any other Trustee or Trustees for any Charitable Purpose or Purposes, to convey or join in conveying, as the Case may be, any such Trust Lands, Tenements, or Hereditaments, in lieu of and in Exchange for any other Lands, Tenements, or Hereditaments of which he, she, or they shall be seised in Fee, to and for his, her, or their own Use and Benefit: Provided always, that in every such Case the Bishop to whom Application shall be made for any such Exchange, shall, upon such Application, and before any other Proceedings touching such Exchange, nominate and appoint some proper Person or Persons, having no Interest in such Exchange, to act as Trustee or Trustees on the Behalf of the said Charity, in the Matter of such Exchange, in the Place and Stead of the Trustee or Trustees who by reason of such Interest as aforesaid shall be disqualified to act therein; and the Concurrence of the Person or Persons, so to be appointed to act as temporary Trustee or Trustees as aforesaid, shall be necessary in all subsequent Proceedings relating to such Exchange.

But the Bishop, in such Cases, shall appoint Trustees who have no Interest in the Lands.

Eviction in case of defective Title.

IX. Provided always, and be it further enacted, That in case the Title of any Person or Persons, Body Politic or Corporate, by whom any Lands, Tenements, or Hereditaments shall be attempted to be conveyed in Exchange for any Charity Lands, Tenements, or Hereditaments, shall at any Time appear to be in any Manner defective, so that such Lands, Tenements, or Hereditaments shall in the Whole or in Part be recovered from the Trustees or Trustee, Body Politic or Corporate, in whom the same shall have been vested or attempted to be vested in Exchange under the Authority of this Act, or shall be in any Manner charged or incumbered, then and in such Case the Trustees or Trustee, Body Politic or Corporate, in whom such Lands, Tenements, and Hereditaments, or any Part thereof, ought to have been vested indefeasibly for Charitable Purposes as aforesaid, shall enter on the original Charity Lands, Tenements, or Hereditaments conveyed in Exchange as aforesaid, and hold the same according to the original Right before the Exchange, for the Benefit of the Charity, in case the Lands, Tenements, or Hereditaments intended to have been vested by way of Exchange for the Purposes of the Charity shall be wholly evicted, or in case the same shall be partially evicted, or in any Manner incumbered, then to hold the same for the Purpose of indemnifying the Charity against the Consequences of any such partial Eviction or any such Incumbrance, and until full Satisfaction shall have been made to the Charity, for any Defect

Defect of Title in the Lands, Tenements, or Hereditaments conveyed in Exchange for the original Charity Lands, Tenements, or Hereditaments as aforesaid, and all Costs, Charges, and Expences incurred by the Charity in consequence thereof.

Expence attending Exchanges how to be paid.

X. And be it further enacted, That no Part of the Expences attending any Exchange to be made in pursuance of this Act, shall be borne by or paid out of the Funds of any Charity, unless it shall be made appear to the Bishop of the Diocese, upon Application for such Exchange as aforesaid, that such Exchange is solely intended for the Benefit of such Charity, and not for any other Purpose, and is in respect of such Convenience advantageous to the Charity, notwithstanding any Expence which may be incurred in effecting the same; and then so much of such Expences only shall be borne by and discharged out of the Funds of such Charity as such Bishop shall find to be just and reasonable, and shall, by Instrument under his Hand, allow and declare to be, in his Opinion, an Expence incurred for the Benefit of the Charity, and such as ought to be discharged out of the Funds of such Charity.

Exempt Jurisdiction not to affect Proceedings of the Diocesan.

XI. And whereas Charity Lands, Tenements, or Hereditaments may be within some peculiar or exempt Jurisdiction; be it further enacted, That in such Case the Application for an Exchange under the Authority of this Act shall be made to the Bishop of the Diocese within which the Charity Lands, Tenements, or Hereditaments proposed to be exchanged shall be situate, and not to any other Authority claiming such peculiar or exempt Jurisdiction; and the Bishop of such Diocese shall proceed in the same Manner, in such Case, as if such Charity Lands, Tenements, or Hereditaments were to all Intents and Purposes within his Jurisdiction as Diocesan; and in case any such Charity Lands, Tenements, or Hereditaments shall be within Two or more Dioceses, then and in such Case Application shall be made to the several Bishops of such several Dioceses, to direct before which of such Bishops the Proceedings touching any such Exchange shall be had, and such Bishops shall accordingly direct before which of such Bishops such Proceedings shall be had; and thereupon such Proceedings shall be had before such Bishop in the same Manner as such Proceedings might have been had if all such Charity Lands, Tenements, or Hereditaments had been within the Diocese of such Bishop.

LONDON: Printed by George Eyre and Andrew Strahan, Printers to the King's most Excellent Majesty. 1821.